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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **W.P.(C) 931/2016 & C.M.Nos.4045-4047/2016**

BIMLA AGGARWAL

..... Petitioner

Through Mr.Kamlesh Kumar Mishra,
Advocate.

versus

SUB DIVISIONAL MAGISTRATE, SAKET & ORS

..... Respondents

Through Mr.Rahul Sharma with Mr.Ankit Roy,
Advocates for R- 1 & 4.
Mr.Roshanlal Goel with Mr.Anuj
Gupta, Advocates for R-2.

CORAM:

HON'BLE MR. JUSTICE MANMOHAN

ORDER

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04.02.2016

Present writ petition has been filed with the following prayers:-

1. *Pass an order directing the respondent No.1 to produce the impugned withdrawal order if any of its order dated 28.05.2015 along with full file.*
2. *Pass an order quashing the withdrawal order if any of its order dated 28.05.2015 if any, issued by the respondent no.1.*
3. *Pass an order directing Respondents to cease any further proceedings or harassment of the petitioner that live in the abovementioned area.*
4. *Pass any such directions or order which this Hon'ble Court deems fit and proper in the facts and circumstances of the above mentioned case.*

Learned counsel for the petitioner states that the Sub-Divisional Magistrate (SDM) vide its order dated 28th May, 2015 had given permission to the petitioner to repair/reconstruct her house bearing property no. 165/105, Gali No. 5, Anupam Vihar, Saidulajab, New Delhi – 110 068 as the Halqua Patwari had confirmed that the dwelling unit of the petitioner is a very old construction and currently in bad state.

Learned counsel for the petitioner extensively relies upon the noting of the office of SDM dated 19th May, 2015. However, a perusal of the file reveals that subsequent to the documents relied upon by the petitioner, the petitioner had filed a writ petition, which was disposed of by this Court vide order dated 21st July, 2015. Since the order dated 21st July, 2015 is rather a short one, the same is reproduced hereinbelow:-

“1. The petition has been received in the post lunch session upon listing on urgent mentioning.

2. The petition impugns the show cause notice dated 24th June, 2015 issued by the respondent no.1 South Delhi Municipal Corporation (SDMC) under Sections 344(1) and 343 of the Delhi Municipal Corporation Act, 1957 and seeks to restrain the respondents from demolishing house no.165/105, Lane no.5, Anupam Garden, Saidulajab, New Delhi – 110 068 of the petitioner.

3. The counsel for the respondent no.1 SDMC appearing on advance notice states that earlier there was an order of the Sub Divisional Magistrate, Saket (SDM) to the effect that the subject property was situated in Saidulajab and not in Sainik Farm. It is further stated that the said letter has since been

withdrawn and upon withdrawal thereof, according to the respondent no.1 SDMC, the property of the petitioner is situated within the Sainik Farm area where no construction activity is permissible under order of the Division Bench. It is stated that the petitioner, notwithstanding the same has raised construction and for demolition whereof action has been initiated.

4. After some hearing, the counsel for the petitioner seeks to withdraw the appeal with liberty to approach the Appellate Tribunal, MCD.

5. The petition is dismissed as withdrawn with liberty aforesaid.”

In response to a pointed query, learned counsel for the petitioner admitted that the petitioner had applied under the RTI Act for a copy of the order, by virtue of which the noting/order dated 19th May, 2015 had been withdrawn.

Since the RTI Act is a complete code which also provides for appeals, this Court is of the view that no order can be passed in the present writ petition.

At this stage, learned counsel for the petitioner states that it is the petitioner's case that there is no letter/order withdrawing the order/noting dated 19th May, 2015. But this Court is not able to appreciate this contention as the petitioner has not received any response in her RTI application.

Consequently, the present writ petition and the applications are dismissed. However, the petitioner is given liberty to continue to

proceed with her RTI application, and if aggrieved, to take remedies under the said Act.

MANMOHAN, J

FEBRUARY 04, 2016/KA