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

+ LPA 65/2016

VISHAL DURGA COLONY RESIDENT
WELFARE ASSOCIATION

..... Appellant

Through: Ms.Rekha Aggarwal with Ms.Madhuri
Dhingra, Advs.

Versus

LT GOVERNOR GOVT OFNCT OF DELHI & ORS Respondents

Through: Proxy counsel for Mr.Gautam Narayan,
ASC for GNCTD.

CORAM:

HON'BLE THE CHIEF JUSTICE

HON'BLE MR.JUSTICE JAYANT NATH

ORDER

02.02.2016

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CM No.3600/2016 (exemption)

Allowed, subject to all just exceptions.

CM No.3599/2016 (delay)

In the facts and circumstances explained in the application, delay of 61 days in filing the appeal is condoned.

CM stands disposed of.

LPA No.65/2016 & CM No.3598/2016

1. This appeal is preferred against the order dated 23.09.2015 passed by the learned Single Judge in W.P.(C) No.3908/2014.
2. The said writ petition was filed seeking a *mandamus* directing the respondents to stop demolition of the petitioner colony situated in Punjab Khore Extn., Delhi and further seeking a direction for regularization of the colony. The learned Single Judge disposed of the petition with the following directions:

- “A. The petitioner to, within one month hereof, file an application with the respondents GNCTD in pursuance to the application already submitted for regularization demarcating clearly on a site plan, the boundaries of the alleged colony and furnishing a list of residents thereof along with the area and the house / property numbers in their occupation and showing the other common areas of the alleged colony.
- B. Subject to the petitioner filing such an application, the respondents GNCTD to take a decision thereon on or before 30th June, 2016, whether or not the alleged colony is entitled to regularization under the prevalent Scheme and if not, recording the reasons therefor.
- C. It is clarified that the pendency of the said decision shall not come in the way of the respondents taking any action in accordance with law for stopping any further encroachment and construction in the alleged colony and / or from carrying out any demolition action if in accordance with law.
- D. The petitioner, its members and residents are also directed to not carry out any work of construction, repair, renovation whatsoever and to not allow expansion of the area of the alleged colony and are also restrained from selling, alienating, transferring or parting with possession of their respective houses / properties.”

3. However, in view of the petitioner’s claim that the residents of the colony have a lawful title to their respective houses and are not in possession of any Government land the learned Single Judge concluded that the writ petition is misconceived and accordingly dismissed the same.

4. Having heard the learned counsel for both the parties, we are of the view that the learned Single Judge has rightly issued the directions in Para 12 of the order under appeal for consideration of the petitioner’s application for regularization. To that extent, the order under appeal warrants no interference on any ground whatsoever. So far as the other observations from Paras 13 to 16

regarding the petitioner's claim that the residents of the colony have a lawful title to their respective houses and are not in possession of any Government land is concerned, we consider it appropriate to make it clear that the same shall not come in the way of consideration of the appellant/petitioner's application for regularization in terms of the directions in Para 12 of the order under appeal. We also direct that there shall not be any demolition during the pendency of the decision on the application of the petitioner for regularization. The order under appeal shall stand modified accordingly.

5. The appeal is accordingly disposed of.

CHIEF JUSTICE

JAYANT NATH, J

FEBRUARY 02, 2016/pmc