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

+ W.P.(C) 1943/2017 and CM 8600/2017

SHIV KUMAR

..... Petitioner

Through Mr. Ranjit Sharma and Mr. Sushil
Tripathi, Advocate

versus

SOUTH DELHI MUNICIPAL CORPORATION & ORS

..... Respondents

Through Mr. Pratap Singh, Advocate for
SDMC/Respondent No.1
Ms. Shruti, Proxy for Mr. Ankur
Chhibber, Advocate for Respondent
no.2

CORAM:

HON'BLE MR. JUSTICE A. K. CHAWLA

ORDER

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09.10.2017

While none appears for the petitioner, in the status report filed on behalf of the respondent, it is stated as follows:-

“... that claim of the petitioner is factually wrong. The respondent / SDMC has de-sealed the property in the light of “The National Capital Territory of Delhi Laws (Special Provisions) Second (Amendment) Act, 2014”.

That it is submitted that existing structure of writ property consists of basement, ground and first floor and is lying locked. The site inspection did not reveal any construction activity at the site. The photographs showing the said status of the property are annexed herewith as Annexure-A for kind perusal of this Hon’ble Court. The respondent /SDMC had booked the writ property for action under Section 343/344 of the DMC Act 1957 vide File No.170/B/UC/EE-II/CZ/12 dated 14/09/2012. Subsequently sealing proceedings under Section 343/344 of the DMC Act was also initiated. The respondent sealed the writ property on 26/11/2012.

That the owner challenged the sealing orders by filing appeal before the Appellate Tribunal. The owner claimed that property is protected under the “The National Capital Territory of Delhi Laws (Special Provisions) Second (Amendment) Act, 2014”. The Tribunal directed to consider the claim of the appellant.

That it is submitted that Government of India vide notification dated 29.12.2014 had brought out “The National Capital Territory of Delhi Laws (Special Provisions) Second (Amendment) Act, 2014”. In respect of unauthorised developments in unauthorised colonies and villages, it lays down that status quo as on 01/06/2014 shall be maintained till 31/12/2017. It further lays down that all notices issued by any local authority for initiating action against protected encroachment or unauthorised development shall be deemed to have been suspended and no punitive action shall be taken till 31/12/2017.

That to enforce the provisions of aforesaid Act, South DMC issued instructions for considering de-sealing of properties, which fulfils the required parameters. In this regard, copy of circular bearing No.D/85/ADDL./CM(ENGG)/BLDG.-HQ/SDMC/2015 dated 21/07/2015 annexed herewith as Annexure B for kind perusal of this Court.

That property falls in unauthorised colony. The sealing of property on 26/11/2012 was sufficient to draw conclusion that it had come before cut-off date i.e. 01/06/2014. Since property was fulfilling the required parameters as laid down in the aforesaid Act, the competent authority allowed de-sealing the property during moratorium period i.e. up to 31/12/2017. The respondent/ SDMC de-seal the property and conveyed the same to the owner /respondent no.3 vide letter no.594/AE(B)-II/CZ/2015 dated 06/11/2015. ...”

In view of the status report nothing survives in the instant petition and the same is disposed off accordingly.

A. K. CHAWLA, J

OCTOBER 09, 2017

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