

\$~28, 30, 31, 35 & 36

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

+ W.P.(C) 1600/2017
DEEPTI JAIN

..... Petitioner

Through Mr.Jai Mohan, Advocate.
versus

NORTH DELHI MUNICIPAL CORPORATION Respondent

Through Ms.Biji Rajesh and Mr.Yashwardhan
Pratap Singh, Advocates for
Mr.Gaurang Kanth, Standing Counsel
for North DMC.

+ W.P.(C) 1602/2017
SAVITA JAIN

..... Petitioner

Through Mr.Jai Mohan, Advocate.
versus

NORTH DELHI MUNICIPAL CORPORATION Respondent

Through Ms.Biji Rajesh and Mr.Yashwardhan
Pratap Singh, Advocates for
Mr.Gaurang Kanth, Standing Counsel
for North DMC.

+ W.P.(C) 1609/2017
RASHMI GUPTA

..... Petitioner

Through Mr.Jai Mohan, Advocate.

versus

NORTH DELHI MUNICIPAL CORPORATION Respondent

Through Ms.Biji Rajesh and Mr.Yashwardhan
Pratap Singh, Advocates for
Mr.Gaurang Kanth, Standing Counsel
for North DMC.

+ W.P.(C) 1618/2017
SUKUN JAIN

..... Petitioner

Through Mr.Jai Mohan, Advocate.
versus

NORTH DELHI MUNICIPAL CORPORATION Respondent

Through Ms.Biji Rajesh and Mr.Yashwardhan
Pratap Singh, Advocates for
Mr.Gaurang Kanth, Standing Counsel
for North DMC.

+ W.P.(C) 1620/2017
ALKAKHATTAR Petitioner

Through Mr.Jai Mohan, Advocate.
versus

NORTH DELHI MUNICIPAL CORPORATION
..... Respondent

Through Ms.Biji Rajesh and Mr.Yashwardhan
Pratap Singh, Advocates for
Mr.Gaurang Kanth, Standing Counsel
for North DMC.

CORAM:
HON'BLE MS. JUSTICE INDERMEET KAUR
ORDER
% **21.02.2017**

C.M. No.7218/2017 (exemption) in W.P.(C) 1600/2017
C.M. No.7220/2017 (exemption) in W.P.(C) 1602/2017
C.M. No.7239/2017 (exemption) in W.P.(C) 1609/2017
C.M. No.7252/2017 (exemption) in W.P.(C) 1618/2017
C.M. No.7255/2017 (exemption) in W.P.(C) 1620/2017

Exemption is allowed subject to just exceptions. Applications
disposed of.

W.P.(C) 1600/2017 & C.M. No.7217/2017
W.P.(C) 1602/2017 & C.M. No.7219/2017
W.P.(C) 1609/2017 & C.M. No.7238/2017
W.P.(C) 1618/2017 & C.M. No.7251/2017
W.P.(C) 1620/2017 & C.M. No.7254/2017

Petitioners before this Court are the owners of shop nos.4,5,6,7
and 8 situated at Durga Plaza 2919-2922, Bahadurgarh Road, Sadar

Bazar, Delhi; they are aggrieved by the vacation notice issued by the respondent Corporation dated 27.1.2017 under Section 349 of the DMC Act; submission is that there appeal against the demolition order is pending before the ATMCD and the matter has now been fixed for final hearing on 01.5.2017; the question as to whether there is any alleged deviation/unauthorised construction is the subject matter before the ATMCD and this is clear from the orders passed by the ATMCD on 09.9.2016, 17.11.2016 as also the last order dated 20.01.2017; these orders have been emphasized by the learned counsel for the petitioners to make a submission that in the status report filed by the Department/Corporation they had stated that the details of the constructions mentioned in the affidavit of the appellants therein (petitioners herein) measures and tallies with the existing construction. Submission being reiterated that the matter has now been fixed for final hearing on 01.5.2017 and this vacation notice thus almost amounts to a preponment of the hearing before that Court.

On advance notice learned counsel for respondent/North DMC has put in appearance. Her submission is that the ATMCD had declined to pass any interim order; this writ petition is not maintainable; the petitioners are advised to approach the ATMCD by moving an appropriate application seeking interim relief therein.

This Court notes this submission. This Court also notes that the vacation notice under Section 349 of the DMC Act is not appealable before the ATMCD. This Court also notes the import of the orders passed by the ATMCD mentioned supra wherein the question of the alleged deviation/illegal construction by the petitioner is the subject

matter before the ATMCD. Learned counsel for petitioners also submits that his stay application is yet pending before the ATMCD. No orders have been passed dismissing the stay application.

Noting these submissions and counter submissions, this Court is of the view that the impugned vacation notice dated 27.01.2017 be stayed till the disposal of the appeal before the ATMCD as the ATMCD is seized with this issue i.e. the issue relating to the alleged illegal construction/deviations and the impugned vacation notice is premised on this question alone.

Learned ATMCD is accordingly directed to dispose of the appeals on 01.5.2017 (which is the date fixed for final hearing in the appeals). Till then no coercive steps be taken.

The other grounds which have been propagated/argued by the petitioners before the ATMCD, needless to state, will remain upon.

Petitions disposed of.

Order dasti under signatures of the Court Master.

INDERMEET KAUR, J

FEBRUARY 21, 2017

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