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

+ LPA 146/2017

% *Pronounced on: 22nd March, 2017*

N.S. SHARMA & ORS. ...Appellants
Through: Mr. Mohan K. Kukreja, Advocate
with Mr.B.L. Khatri, Advocate.

Versus

SOUTH DELHI MUNICIPAL
CORPORATION & ANR.Respondents
Through: Mr. Surender Sinha, Advocate with
Mr.Rameez Siddiqui, Advocate for R-1.
Mr. Sameer Abhyankar, Advocate for R-2.

CORAM:
HON'BLE THE CHIEF JUSTICE
HON'BLE MS. JUSTICE SANGITA DHINGRA SEHGAL

J U D G M E N T

1. The present appeal arises out of the order dated 16.01.2017, passed by the learned Single Judge in W.P.(C)No.369/2017. The unsuccessful petitioners are the appellants before us.
2. The appellants herein filed the said writ petitions challenging the order dated 25.05.2016 of the Executive Engineer (Bldg.), Central Zone, South Delhi Municipal Corporation (SDMC) thereby permitting installation of a lift in Nehru Apartments, Kalkaji, New Delhi.
3. Admittedly, the appellants herein/writ petitioners raised various objections before the Executive Engineer and after considering the same the order dated 25.05.2016 came to be passed holding that there is no substance in the objections. It was also observed that the conditions laid down for obtaining NOC for installation of lift and further conditions to

be followed after installation of lift have adequately addressed the grievances of the appellants herein.

4. We have heard the learned counsel for both the parties.

5. It may be true that there are allegations of illegal and unauthorized constructions and encroachments in the building in question. However, it is the specific case of SDMC that the alleged illegal construction would have no bearing on the installation of the lift if it is installed as per the norms of DDA. It is also relevant to note that W.P.(C)No.2000/2014 filed by the respondent No.2 herein was disposed of by this Court by order dated 16.08.2016 taking note of the fact that the installation of the lift by the respondent No.2 needs to be processed as per the fresh policy of DDA. Admittedly, the appellants herein were also heard in W.P.(C) No.2000/2014. In the circumstances, the learned Single Judge declined to entertain the writ petition observing:-

"9. This Court thus endorses the submission of respondent no.2 (R.K.Garg) that this appears to be a personal vendetta which the petitioner is harbouring against him. The litigation dates back to the year 2012; this fight is not being permitted to come to a close. The order passed on 16.8.2016 has already examined the order dated 25.5.2016 (now impugned) in WP(C) 2000/2014. The order was passed in the presence of the present petitioner; in fact the counsel appearing for N.S.Sharma and others was also appearing for the same parties on 16.8.2016; he did not raise any objection to the withdrawal of that petition at that time. The arguments propounded today are the same which were the subject matter of his objections. The NOC has also been granted in favour of respondent no.2 (R.K.Garg) as per the directions contained in the order (dated 16.8.2016); the

petitioners have approached this Court five months later. This Court is not inclined to entertain this writ petition.

10. At this stage, learned counsel for the petitioners submits that he would also be laying a challenge to the policy of the DDA for grant of NOC for the installation of the lift; this policy is not as per law. This Court notes that this is not a prayer in the present petition. This petition is without any merit. It is dismissed with costs quantified at Rs.10,000/-.”

6. We do not find any justifiable reason to interfere with the above-said order. Admittedly, the alleged unauthorized construction in the building in question is not an issue in the present appeal. Even with regard to the contention of the appellants that installation of the lift would cause obstructions in case of emergency evacuation is concerned, it is an admitted fact that the lift has not been made operational yet and the respondent No.2 is required to obtain a separate No Objection Certificate from the Delhi Fire Service as a pre-requisite for obtaining the completion certificate. As such the aspect of fire safety in terms of the Fire Service Act, 2007 is to be considered by Chief Fire Officer under the provisions of the Fire Service Act, 2007 at the time of granting completion certificate.

7. For the reasons mentioned above, we do not find any infirmity in the order under appeal.

8. The appeal is accordingly dismissed.

CHIEF JUSTICE

MARCH 22, 2017/'anb'

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