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

+ LPA 228/2017 and C.M. Nos.13078-79/2017

GREEN PARK ASSOCIATION (REGD)

..... Appellant

Through: Mr. Siddharth Naidu, Mr. A.
Lakshminarayan & Mr. A. Kashyap,
Advocates.

versus

SOUTH DELHI MUNICIPAL CORPORATION & ORS

..... Respondents

Through: Ms. Biji Rajesh, Mr. Gaurang Kanth
& Ms. Eshita Baruah, Advocate for
respondent/ SDMC.
Ms. Neha Rastogi & Mr. Animesh
Rastogi, Advocates along with SI
Rajeev Ranjan, ZO/ R.K. Puram
Traffic Circle, & ASI Birendra Singh,
Pairvi Officer, for respondents No.3
& 4.

CORAM:

HON'BLE MR. JUSTICE VIPIN SANGHI

HON'BLE MS. JUSTICE DEEPA SHARMA

ORDER
24.05.2017

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The appellant has preferred the present Letters Patent Appeal to assail the judgment dated 23.01.2017 in W.P. (C.) No. 5629/2013, whereby the learned Single Judge decided the aforesaid writ petition issuing certain

directions in the matter.

The brief facts are that the Green Park Main was developed by the Urban Development Housing and Construction Private Limited as a private colony in the year 1955. On 02.04.1964, revised layout plan of the Green Park was finalised by the then Standing Committee of the Municipal Corporation. Different areas were earmarked for different purposes. The ground floor of property bearing Nos. S-1 to S-39 in a single row were declared as a local market. In front of the said properties, there was a lawn, which was 40-feet wide. Beyond the lawn was a 60-feet wide road. On the opposite side of the road, residential plots were earmarked bearing Nos. G-31 to G-56. Apparently, the petitioner approached the Court initially with the grievance that the 40-feet wide lawn had been engulfed by the broadening of the road and a part of it was converted into a pavement. The impugned order shows that at the time of hearing of the writ petition, the petitioners stated that they were not aggrieved by the fact that the lawn area has been used by the Corporation as a parking.

The submission of learned counsel for the appellant is that this concession was made by the counsel without instructions from the petitioner/ appellant and was contrary to law. The appellant, therefore, seeks to withdraw the said concession.

Since the impugned judgement is premised on the concession made before the learned Single Judge, in our view, it would be appropriate that the appellant moves an appropriate application before the learned Single Judge rather than raising the said aspect for the first time in appeal. In appeal, we are examining the judgment as passed by the learned Single Judge on the basis of the arguments advanced before the writ Court. If the appellant is

now seeking to alter course, it should first approach the learned Single Judge.

Accordingly, the present appeal is disposed of while granting liberty to the appellant to move the learned Single Judge by an appropriate application. If such an application is moved, the learned Single Judge shall decide the same on its own merits.

The appeal stands disposed of in the aforesaid terms.

VIPIN SANGHI, J

DEEPA SHARMA, J

MAY 24, 2017

B.S. Rohella