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IN THE HIGH COURT OF DELHI AT NEW DELHI

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CONT.CAS(C) 208/2016

ANITA GARG

..... Petitioner

Through

Ms.Neha Garg with Mr.Nitin Garg,
Advocates.

versus

S NARESH KUMAR

..... Respondent

Through

Mr.Anil Grover, Standing Counsel
with Ms.Kanika Singh, ASC and
Ms.Noopur Singhal, Advocates.

CORAM:

HON'BLE MR. JUSTICE MANMOHAN

ORDER

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31.01.2017

Present contempt petition has been filed alleging wilful disobedience of the order dated 25th February, 2015 passed by a Coordinate Bench of this Court, whereby the respondents were directed to re-consider the petitioner's application for conversion within eight weeks in accordance with the new policy. It was further held by the Coordinate Bench of this Court that if it is found that the petitioner's application complies with all other conditions and requirements, the petitioner's property shall be converted as freehold at the rates applicable when the petitioner applied for conversion and paid the amount.

Learned counsel for the respondent-NDMC has filed a reply-affidavit, in which it has been averred as under:-

"5. That in due compliance of the aforesaid direction, the New Delhi Municipal Council decided to allow conversion

from leasehold to freehold and issued letters dated 26.04.2016 followed by 09.05.2016 to the petitioner informing that the NDMC has decided to convert the subject premises (i.e. Shop No.69-B, Khan Market) from leasehold to freehold considering the payment of amount for the said shop on 23.11.2012 and the Hon'ble High Court order dated 25.02.2015 in the W.P.(C) No.1298/2013. It is submitted that the NDMC has taken the decision after considering:

- a. The terms and conditions prevalent at the time of payment of the amount of Rs.28,43,000/- (Rs. Twenty Eight Lakhs, Forty Three Thousand only) by the petitioner on 23.11.2012 for conversion of the said property from leasehold to freehold, and*
- b. The order of Hon'ble High Court dated 25.02.2015 to convert the said property as freehold at the rates applicable when the petitioner paid the amount i.e. on 23.11.2012.*

That the petitioner was requested to attend the office of the respondent on 02.05.2016 and thereafter on 16.05.2016 due to non-appearance of the petitioner. The copy of the NDMC's letters dated 26.04.2016 and 09.05.2016 are annexed herewith and marked as Annexure R-1 and R-2 respectively.

6. That it is pertinent to note that the petitioner had applied for freehold conversion in the year 2008 but paid the freehold charges Rs.28,43,000/- only on 23.11.2012. Accordingly, in terms of order dated 25.02.2015 it was decided that freehold was to be allowed at the rate applicable on the date on which the petitioner paid the amount i.e. on 23.11.2012 in compliance of the (a) Hon'ble Court order dated 25.02.2015 and (b) policy of the New Delhi Municipal Council as applicable on the date of the decision in terms of decision of Hon'ble Supreme Court in 'State of Tamil Nadu'Vs. 'M/s Hind Stone' reportable as 1981 (2) SCC 205, which has been reiterated time and again by Hon'ble Apex Court even in

its recent judgments, wherein the Hon'ble Supreme Court has held that the policy to be followed is the policy applicable on the date of decision irrespective of the date of application. A copy of the New Delhi Municipal's Council's policy as applicable on the date of decision in this regard is enclosed as Annexure R-3.

7. That after issuance of letter dated 09.05.2016, the petitioner instead of getting the conversion formalities executed, has sought to raise disputes vide her letter dated 16.05.2016 with regards to rates taken, even though as stated above the rate which was payable at the time the petitioner paid the amount has been taken. Copy of letter dated 16.05.2016 is annexed herewith and marked as Annexure R-4."

In view of the aforesaid decision of the respondent, learned counsel for the petitioner craves leave and liberty to file a writ petition to challenge the same.

With the aforesaid liberty, present contempt petition is disposed of. This Court, however, clarifies that it has not expressed any opinion on the merits of the controversy. The rights and contentions of all the parties are left open.

MANMOHAN, J

JANUARY 31, 2017
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