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

+ **W.P.(C) 3217/2016**

MAHENDER KEHAR Petitioner
Through **Mr. Nakul Jain, Adv.**

versus

SOUTH DELHI MUNICIPAL CORPORATION OF DELHI & ORS
..... Respondents
Through **Ms. Puja Kalra, Adv. for SDMC.**

CORAM:

HON'BLE MR. JUSTICE A. K. CHAWLA

ORDER

% **18.08.2017**

Petitioner approached this Court alleging unauthorized construction in property bearing no. D-8, South Extension, Part-II, New Delhi, with the prayer, as follows :

“Issue a writ of mandamus or any other writ, order and/or direction commanding the Respondent Nos. 1 and 2 to demolish/remove the illegal and unauthorized construction raised by the Respondent No.3 in respect of the rear portion and the drive way/set-back area of the No.D-8, South Extension, Part-II, New Delhi.”

In the status report by way of affidavit filed on behalf of respondent no.1, it is stated, as follows :

“3. That official of respondent/SDMC inspected the writ property. The site inspection revealed that plot

is sub-divided into two parts. The front portion consists of ground floor and first floor whereas the rear portion comprises of basement, ground, first and second floor. The existing structures of both the portions are very old. The cause of litigation on the part of petitioner pertains to the rear building consists of basement to second floor.

4. That site inspection did not reveal any construction activity. The existing structures are very old. It is submitted that in the year 2007, the respondent/SDMC, had sealed the rear portion consists of basement to second floor on account of misuse of residential premises except the first floor. The first floor used for Dr. Clinic was left unsealed being a permitted activity (Professional Activity) under Master Plan-2021. The sealed portions are still lying sealed. The front portion consists of ground and first floor is being used for residential activity.

5. That there is an appeal bearing No.34/2013 title “M/s. Vidhartha Estate Pvt. Ltd. V/s South DMC” pending before Appellate Tribunal regarding de-sealing of various portions sealed on account of misuse, as stated in the preceding para.

6. That as regard specific contention of petitioner regarding unauthorized construction, it is submitted that site inspection did not reveal any construction activity. The existing structures are very old, which is also evident from the sealing of rear building (writ property) in the year 2007. It is respectfully submitted that Government of India vide Notification dated 29th December, 2014 had brought out “The National Capital Territory of Delhi Laws (Special Provisions) Second (Amendment) Act, 2014”. In respect of *unauthorized developments in plotted developments*, it lays down that status quo as on 07/02/2007 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 unauthorized development shall be deemed to have been suspended and no punitive action shall be taken till the 31st day of December, 2017.”

In view of the action having been taken, nothing survives in the instant petition and the same is dismissed accordingly. Should any

cause of action survive in favour of the petitioner, in view of the status report filed, the petitioner would be at liberty to agitate any such right, as provided for under law.

A. K. CHAWLA, J

AUGUST 18, 2017

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