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IN THE HIGH COURT OF DELHI AT NEW DELHI

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W.P.(C) 2590/2017

HEMLATA SHARMA

Through

..... Petitioner

Mr. Sarthak Guru with Mr. Hemendra
Jailiya, Advocates

versus

DELHI DEVELOPMENT AUTHORITY Respondent

Through

Mr. Sanjeev Sabharwal, Standing
Counsel with Mr. Hem Kumar,
Advocate for DDA.
Ms. Parvati Madduri, Intervener in
person.**CORAM:****HON'BLE MR. JUSTICE MANMOHAN****ORDER**

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21.03.2017

Present writ petition has been filed seeking a direction to respondent-DDA to furnish a status report with respect to ownership rights of the terrace of the DDA Flat no. 214, Narmada Apartment, Alaknanda, New Delhi.

It is the petitioner's case that the owner of the flat No.221 has illegally occupied the terrace of the building and is restricting the access of the other residents of the building.

Ms. Parvati Madduri who appears for the owner of DDA Flat No. 221, Narmada Apartment, Alaknanda, New Delhi states that the roof rights in question vests with him. In support of her contention, she relies upon the

letter dated 3rd June, 2010 issued by the Jt. Director, Enforcement (Housing), DDA. The letter reads as under:-

*“Delhi Development Authority
Office of the
Joint Director Enf (H)
Vikas Sadan, N Delhi*

No:- F4(16) AE/Enf (H)/SEZ/10/P&I/258

dt. 3/6/2010

To

*Sh Y.S. Rao,
221, Narmada Apartments
Alak Nanda, N. Delhi-110019*

Sub.: Illegal unauthorised construction in Flat No. 214, Narmada Apartments, Alak Nanda, N. Delhi-110019 –

*Ref. No:- NIC received on dt 12.5.10.
NIC received on dt 12.5.210.*

Reference to your letter mentioned above Part of your previous letter was regarding unauthorised construction by the allottee of Flat No. 214, Narmada Apartment, Accordingly your complaint was transferred to Dy. Commissioner, MCD. As far as concern with the above mentioned letters as per the present policy the roof right in two, three and four storied houses where roof is accessible through stair case and mumty constructed by DDA, the roof right lies with the top floor allottee subject to accessibility to the residents of the block for maintenance and water tank, plumbing system, fixing of T.V. cable antennas etc.

This issues with the approval of DIR ENF. (H). DDA

Sd/-

Jt. Director Enf (H)

Copy to :- Dy. Director LAB (H) D.D.A.

Jt. Director Enf (H)”

She further states that the SDMC in pursuance to the order dated 11th November, 2016 passed by this Court in W.P.(C) 10710/2016 has passed an order dated 7th December, 2016 in which it has observed that permission for additional coverage on the terrace does not require the consent of owner(s) of flats in a vertical stack served by the same staircase.

Keeping in view the aforesaid facts, this Court is of the view that though the matter requires a detailed hearing, yet the present writ petition is not a comprehensive one.

Consequently, present writ petition is disposed of with liberty to the petitioner to file a comprehensive writ petition after impleading SDMC and the owner of the Flat No. 221 as well as impugning the SDMC's order dated 7th December, 2016 and DDA's order dated 3rd June, 2010.

MANMOHAN, J

MARCH 21, 2017

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