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

+ **W.P.(C) 2824/2017**

PROMILA GUPTA

..... Petitioner

Through Mr. Rajiv Nayar, Senior Advocate
With Ms. Kanika Agnihotri, Advocate

versus

SOUTH DELHI MUNICIPAL CORPORATION & ORS

..... Respondents

Through Mr. Roshan Lal Goel, Standing
Counsel with Ms. Anju Gupta,
Advocate for R-1 and R-2
Mr. Sanjay Dewan and Mr. Palak
Rohmetra, Advocates for R-3 and R-5

CORAM:

HON'BLE MS. JUSTICE INDERMEET KAUR

ORDER

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28.03.2017

CM APPL No. 12320/2017

Exemption allowed subject to all just exceptions.

Application disposed of.

W.P.(C) 2824/2017, CM APPL No.12319/2017

Petitioner before this Court is the sibling of respondent no. 4. They are stated to be co-owners of a property bearing No. 38, Anand Lok, New Delhi. Petitioner is aggrieved by a sanction which has been accorded by the SDMC / Respondent no. 1 in favour of respondent no.4; submission is that this sanction of the building plan accorded in

favour of respondent no.4 is against the bye laws of the corporation.

On advance notice counsel for respondent / SDMC has put in appearance. He points out that a civil litigation i.e. the suit for permanent injunction is pending interse the two sisters i.e. between the petitioner and respondent no.4 and the first issue in that suit would encompass the relief which is sought for in the present petition.

Learned counsel for the petitioner points out that in view of the provisions of section 347 E of the DMC Act the petitioner may not be able to challenge the allegedly fraudulently sanction / revocation of the building plan in a civil court. His further submission is that he could not approach the ATMCD (the Appellate Tribunal) for filing an appeal (against the grant of sanction to respondent no.4) in time for the reason he learnt about this sanction only on 28.01.2017 when certain documents were filed before the Civil Judge; since the details were not known to him he had moved an application seeking the details; the matter was thereafter fixed for a status report to be filed by the Corporation on 23.03.2017. His submission is that this would extend his period of limitation (contained under section 347 (b) (2)) which mandates that an appeal against the order for grant / refusal of a sanction has to be made within 30 days.

Be that as it may, noting these submissions and counter submissions of the parties, at this stage Court is of the view that this petition can be disposed giving liberty to the petitioner to approach the ATMCD along with an accompanying application seeking condonation of delay for the reasons as noted supra as also other reasons which may be mentioned by the petitioner in that application.

It is for the ATMCD to take a call on that application dehors any observation made by this Court.

No further orders are called for.

Petition disposed of.

Order dasti under signatures of Court Master.

INDERMEET KAUR, J

MARCH 28, 2017

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