

\$~3 & 4

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ LPA 419/2016
SAGAR APARTMENTS RESIDENTS ASSOCIATION
..... Appellant
Through Mr. Rahul Shukla, Advocate.

versus

NEW DELHI MUNICIPAL COUNCIL Respondent
Through Ms. Sakshi Popli, Advocate.
+ LPA 430/2016
CHARANJIT SINGH Appellant
Through Mr. Rahul Shukla, Advocate.

versus

NEW DELHI MUNICIPAL COUNCIL Respondent
Through Ms. Sakshi Popli, Advocate.

CORAM:

HON'BLE MR. JUSTICE S. RAVINDRA BHAT
HON'BLE MR. JUSTICE SANJEEV SACHDEVA

ORDER

% **13.12.2017**

LPA 419/2016 & CM No.27132/2016 (stay) & CM
No.27133/2016 (delay) & LPA 430/2016 & CM
No.27681/2016 (stay) & CM No.27682/2016 (delay)

1. The appellants' grievance is with respect to the New Delhi Municipal Council's Notification of its power under Section 249 of the New Delhi Municipal Council Act, 1994 (hereinafter referred to as 'the Act'). It is contended that the premises in Sagar Apartments Complex had faced demolition notices under Section 247 of the Act and the occupants had

suffered adverse orders which attained finality. The appellants' grievance is that despite this state of affairs, the Chairperson issued notice in the present instance requiring the occupants to show cause as to why the offending built up portion should not be removed to bring them in conformity with the sanctioned plan. It is contended that this exercise is one of duplication and would entail delay, which would work to the advantage of the occupants.

2. It is also urged that wherever demolition orders are issued by the council under Section 247 of the Act, the Commissioner ceases to exercise any manner of jurisdiction, under Section 249 of the Act.

3. The Single Judge, by the impugned order, rejected the writ petition as meritless. The Court has considered the submissions of the parties. On the question urged, we are unimpressed that *ipso facto* the existence of an order under Section 247 of the Act precludes the exercise of an order under Section 249 of the Act. There is certainly an element of overlap between the two provisions. However, Section 249 of the Act is independent of the power to proceed and pass orders in regard to violation found and determined by the Council. At the same time, this Court is conscious of the fact that, in the present case, a large number of premises were subjected to the proceedings under Section 247. Many of them had unsuccessfully challenged the notices and further orders before the Court.

4. In these circumstances, at least, wherever the order has attained finality, the respondents are, hereby, directed to ensure that the on-going proceedings, initiated under Section 249, are concluded as expeditiously as possible and, in any manner, within three months from today. The direction is issued to this effect to the NDMC.
5. The appeal is partly allowed in the above terms.
6. Order *Dasti* under the signatures of the Court master.

S. RAVINDRA BHAT, J

SANJEEV SACHDEVA, J

DECEMBER 13, 2017
st