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

+ CM(M) 1174/2013

RAJESH ARORA

..... Petitioner

Through: Mr. P.S. Bindra, Ms. Rishitka, Ms.
Ashmita and Ms. Savi, Advs.

Versus

NORTH DELHI MUNICIPAL CORPORATION

..... Respondent

Through: Mr. Ajay Arora and Mr. Kapil Dutta,
Advs.

AND

CM(M) 1175/2013

SHEELA GANDHI & ANR

..... Petitioners

Through: Mr. P.S. Bindra, Ms. Rishitka, Ms.
Ashmita and Ms. Savi, Advs.

Versus

NORTH DELHI MUNICIPAL CORPORATION

..... Respondent

Through: Mr. Ajay Arora and Mr. Kapil Dutta,
Advs.

CORAM:

HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW

ORDER

% **18.09.2017**

**CM No.33534/2017 in CM(M) No.1174/2013 & CM No.33532/2017 in
CM(M) No.1175/2013**

1. Allowed, subject to just exceptions.
2. The applications are disposed of.

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CM(M) 1174/2013 & CM No.33533/2017 (for stay) & CM(M) 1175/2013 & CM No.33531/2017 (for stay)

3. These petitions, both under Article 227 of the Constitution of India, were admitted in the category of ‘Regulars’ and were listed on an application being filed by the petitioner/s in both the petitions seeking stay of hearing of appeals before the Appellate Tribunal, Municipal Corporation of Delhi (ATMCD) from which these two petitions arose.

4. On hearing the counsels for the parties without having perusing the files myself, the position which emerges is as under:

(i) The petitioner/s in both petitions, in or about the year 2013 preferred appeals aforesaid before the ATMCD with respect to orders of demolition passed by the respondent North Delhi Municipal Corporation (NrDMC) with respect to property No.11A, Court Road, Civil Lines, Delhi and during the pendency of the said appeals, there was interim stay of the orders of demolition;

(ii) The petitioner/s in both petitions applied to ATMCD for permission to carry out certain changes in the property and which permission was granted;

(iii) the respondent NrDMC subsequently applied to the ATMCD *inter alia* contending that the permission had been obtained fraudulently, by suppressing material facts and in violation of the National Capital Territory of Delhi Laws (Special Provisions) Act, 2007;

(iv) The ATMCD found merit in the aforesaid plea of the respondent NrDMC and on account thereof vacated the earlier order

of interim stay of orders of demolition appealed against and directed demolition of changes made;

(v) Both petitioner/s preferred appeals against the said order to the District Judge and the District Judge partly allowed the appeals, setting aside the directions for demolition of the changes made but upholding the vacation of the earlier interim order and directed the ATMCD to decide the appeals on merits;

(vi) Aggrieved from the aforesaid part, these petitions were preferred and in which there are interim orders directing maintenance of *status quo*.

5. I have in the circumstances put it to the counsels that instead of hearing these petitions, why should the appeals which have been pending before the ATMCD for unusually long time of four years should not be directed to be disposed of in a time bound manner, continuing the order of maintenance of *status quo* with respect to the property.

6. Both counsels are agreeable thereto.

7. The counsel for the petitioner/s however states that it be clarified that the ATMCD will also adjudicate on the applicability of the NCT of Delhi Special Provisions Act, notwithstanding any observation in the earlier orders.

8. The counsel for the respondent NrDMC states that the official/advocate of the NrDMC on an earlier occasion incorrectly made a statement about the applicability of the NCT of Delhi Special Provisions Act regarding reconstruction.

9. Accordingly, the petitions are disposed of:

- (I) with a request to the ATMCD, before whom the appeals are stated to be listed next on 21st September, 2017, to endeavour to decide the appeals on or before 30th October, 2017;
- (II) leaving it open to the counsels to make all arguments permissible in law before the ATMCD, irrespective of whatsoever may have been observed in any of the earlier orders and the statements if any of the officials/advocates for NrDMC;
- (III) directing the parties to maintain *status quo* qua construction in the property.

10. At this stage, it is pointed out that two contempt petitions/contempt cases averring contempt of order of the ATMCD as well as of this Court are also pending consideration.

11. It is made clear that disposal of these petitions in the manner aforesaid shall not prejudice the outcome of the said contempt cases.

12. Liberty is also given to the counsels to apply for those contempt cases to be listed.

Copy of this order be given *dasti* under the signatures of the Court Master.

RAJIV SAHAI ENDLAW, J.

SEPTEMBER 18, 2017

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