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

+ **W.P.(C) 6570/2016 & CM APPL. 26955/2016**

S M ZAKIR ALI

..... Petitioner

Through Mr. Javed Ahmad and Mr. Pradeep
Kumar, Advs.

versus

SOUTH DELHLI MUNICIPAL CORPORATION & ANR.

..... Respondents

Through Mr. Kartikeya Singh and Mr. Raktim
Gogoi, Advs.

CORAM:

HON'BLE MR. JUSTICE A. K. CHAWLA

ORDER

% **08.09.2017**

By the instant petition, petitioner seeks quashing of the impugned vacation notice dated 08.07.2016 issued by the respondent under Section 349 of the DMC Act. According to the respondents, the impugned vacation notice in respect of the property being a DDA Flat No. K-21-C, DDA Flats, Saket, New Delhi, is the outcome of the demolition order passed on 13.05.2010, which according to the respondents has obtained finality. Ld. counsel for the petitioner on his part, however, strenuously contends that the demolition order dated 13.05.2010 was neither served on the petitioner at any point of time nor it had come to be disclosed, when the petitioner had earlier preferred a statutory appeal before AT, MCD against demolition and sealing of the alleged unauthorised construction in the subject property in the year 2010. Suffice to say, alongwith the counter affidavit, the demolition order dated 13.05.2010 has come to be

annexed and in view thereof, the petitioner seeks liberty to approach AT, MCD thereagainst. Though, no liberty for the purpose is required, inasmuch as, it would be a statutory right of the appellant to assail such order in accordance with law, the prayer to that effect being innocuous is granted. It going without saying that, when the petitioner avails such remedy in accordance with law, the petitioner shall explain the reasons for delay and the AT, MCD shall dispose off such prayer of condonation of delay in accordance with law, on its own merits.

Keeping in view the totality of the facts and circumstances, the instant petition is dismissed as withdrawn with the liberty, as prayed. For a period of fifteen days from today, the respondent shall not proceed with the execution of the demolition order dated 13.05.2010, inasmuch as, during such period the petitioner may prefer appeal. It is made clear that any observation made in the instant proceedings shall have no bearing on the merits of the case of the petitioner before the AT, MCD. As prayed on behalf of the petitioner, liberty is also reserved to the respondent to consider the representation already said to have been for regularisation of the unauthorised construction, on its own merits, and it is desirable that any such representation lying pending with the respondent, be disposed off within thirty days from today.

Dasti under the signature of the Court Master.

A. K. CHAWLA, J

SEPTEMBER 08, 2017/ac