

\$~10

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

+ W.P.(C) 4212/2015

PRABHA THAKUR Petitioner
Through Mr. Santosh Kumar, Adv.

versus

SOUTH DELHI MUNICIPAL CORPORATION Respondent
Through Mr. Balendu Shekhar, Adv. for
SDMC/R-1.

CORAM:

HON'BLE MR. JUSTICE A. K. CHAWLA

ORDER

% **02.08.2017**

By the instant petition, the petitioner seeks quashing of communication dated 27.11.2014, whereby, the building plan submitted by the petitioner has come to be rejected without signatures of all owners of the other floors. It would suffice to say that the petitioner asserts to be a bonafide purchaser and owner of the entire third floor with terrace of the free hold property bearing no. N-35, C.R. Park, New Delhi. It is not in dispute that the said portion of the property bearing no. N-35, C.R. Park, New Delhi is duly mutated in favour of the petitioner and that, it is a freehold property. In LPA 134/2017 Harish Bajaj vs. North DMC, in the similar case, it has been held, as under :

“17. In the present case, the appellants are the co-owners of the property, wherein the construction is to be raised, have applied for sanction of the building plan. In these circumstances, the necessity of the respondent No.1 for a “ No Objection Certificate” from the respondent No.2 is completely unwarranted.

18. The municipal authorities would consider the permissibility of that proposed construction from every aspect as postulated in the municipal laws and bye-laws as well as other statutes which may have a bearing. It is required to be ensured that all constructions strictly abide by the law.

19. In view thereof, the order dated 12th August, 2016 passed by the North Delhi Municipal Corporation, rejecting the application for sanction of building plans of the appellants on the ground that the same was not accompanied by a “ No Objection Certificate” of the “co-owners”, is not sustainable and is hereby set aside and quashed.

20. For the same reason, the judgment dated 17th January, 2017 passed by the learned Single Judge in W.P.(Civil) No.333/2017, is also hereby set aside and quashed.

21. As a result, the respondent is directed to consider and process the application of the appellant for sanction of the plans, which has already been filed by the appellant which was rejected, within a period of three weeks from today. The order thereon be communicated to the appellant, who if still aggrieved thereby, may proceed in accordance with law.”

In view of the dictum of this Court in the judgement (supra), the respondent is directed to consider and process the application of the appellant for sanction of the plans, which was rejected vide the impugned communication dated 27.11.2014, within a period of three weeks from today, without asking for N.O.C. of the owners of the other flat owners in the property bearing no. N-35, C.R. Park, New Delhi. The decision taken be communicated to the appellant, who, if, still aggrieved thereby, may follow such legal recourse, as may be available under law. Petition stands disposed off accordingly.

Dasti under the signatures of the Court Master.

A. K. CHAWLA, J

AUGUST 02, 2017

rc