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

+ LPA 463/2017

NEW DELHI MUNICIPAL COUNCIL Appellant

Through: Ms. Sakshi Popli & Mr. Jitendra
Kumar Tripathi, Advocates.

versus

PREM LATA BHATIA & ORS Respondents

Through: Mr. Vinod Kumar Goyal &
Mr. Abhinav Singh, Advocates for
respondent No.2/ GNCTD.

CORAM:

HON'BLE MR. JUSTICE VIPIN SANGHI

HON'BLE MS. JUSTICE REKHA PALLI

ORDER

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14.07.2017

C.M. No. 24164/2017

Exemption allowed, subject to all just exceptions.

The application stands disposed of.

C.M. No. 24165/2017

The dim copies are taken on record.

The application stands disposed of.

C.M. No. 24163/2017

By this application, the appellant seeks condonation of 90 days delay in filing the present appeal.

Though the delay appears to be much more than what is stated in the

application, for the reasons stated in the application, the same is allowed.

LPA 463/2017

By the present Letters Patent Appeal, the appellant assails the order dated 28.01.2016 passed by the learned Single Judge in W.P. (C.) No.2882/2015.

The learned Single Judge has, by the impugned order, directed as follows:

“5. Accordingly, the petition is disposed of with the following directions:-

A. The respondent NDMC to, on 1st February, 2016 at 1100 hours de-seal the aforesaid property, only for the purposes of carrying out measurements for computing misuse charges and if need be to prepare a plan of the property as exists and to complete the said process by 1700 hours on 5 th February, 2016.

B. Thereafter the said property shall be de-sealed and the petitioners shall have access thereto.

C. However the petitioners shall not be entitled to make any additions, alterations, renovations, constructions or work of any nature whatsoever therein without the express permission in writing of the respondent NDMC.

D. The petitioners shall on or before 26th February, 2016 submit to the respondent NDMC fresh plans, either for regularisation of the existing construction with suitable additions, alterations, modifications or for demolition of the existing construction and re-construction and the said plans shall be considered by the respondent NDMC in accordance with law.

E. The petitioners, upon de-sealing of the property shall not use the subject property for any purposes other than as is permissible in law.

F. The respondent NDMC shall be entitled to raise a demand in accordance with law on the petitioners for misuse charges and the petitioners if impugn the same would have their remedies in accordance with law.

G. The petitioners shall not alienate or part with possession of or create any encumbrance in the subject property without giving advance notice of at least two months to the respondent NDMC as well as L&DO (which is stated to have re-entered the property).

5. The counsel for the petitioners states that permission be given for painting and polishing of the premises, to make it habitable.

6. The respondent NDMC between 1st and 5th February, 2016 as aforesaid will have the property photographed to be able to decipher the exact status thereof and the petitioners shall notify the respondent NDMC of the date from which they want to commence the work of painting, polishing etc. of the property and the date till which the said work will go on. The respondent NDMC if so desires may depute a person to oversee the work of painting / polishing or regularly visit the property to ensure that in the garb of the said works no other works are carried out.”

The aforesaid order came to be passed in the background that the property in question was sealed on 10.04.2006. Since then, the property was lying sealed. The original sanction plan was not traceable in the records of the NDMC.

In this background, the learned Single Judge, in our view, has passed a completely just and pragmatic order, which cannot be said to be, in any manner, opposed to law. Just because the property had been sealed, it does not follow that it should remain sealed for all times to come. When the impugned order was passed, a 10-year period has already elapsed since the

sealing of the property. The respective obligations of the parties have been set out in the impugned order so that the property could be desealed; the extent of unauthorised construction and misuse could be assessed; the necessary addition, alternation, renovation, construction, etc. could be carried out with the express permission of the NDMC; and the appellant NDMC can raise demand in accordance with law for misuse charges and/ or unauthorised construction. The respondent has also been injuncted from misusing the property for any unauthorised purpose. The learned Single Judge has taken note of and addressed all concerns that the appellant could possibly have.

In these circumstances, we find no merit in the present appeal.

Dismissed.

VIPIN SANGHI, J

REKHA PALLI, J

JULY 14, 2017

B.S. Rohella