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

+ **W.P.(C) 9307/2017 and CM APPL. 38024/2017**

M/S KHAN CHACHA KEBABS PVT LTD AND ORS

..... Petitioners

Through Mr. Kabir Dixit, Mr. Waheb Hussaini
and Mr. Manish Sangwan, Advocates

versus

NEW DELHI MUNICIPAL COUNCIL AND ANR

..... Respondents

Through Mr. Vivek Aggarwal, Standing
Counsel, NDMC with Mr. M.K.
Gautam, JE, NDMC

CORAM:

HON'BLE MR. JUSTICE A. K. CHAWLA

ORDER

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24.10.2017

By the petition, the petitioners seek issuance of writ of Certiorari to set aside a sealing order dated 21.10.2017 passed by the respondent/New Delhi Municipal Corporation (NDMC) under Section 250 of the NDMC Act, 1994.

During the course of hearing, Id. Counsel for the petitioners concede that against the impugned sealing order, statutory remedy, by way of appeal before AT, MCD, is tenable. In view of the efficacious remedy being available, the instant writ petition would therefore, be not maintainable, is equally conceded to, by the Id. Counsel for the petitioners. Id. Counsel for the petitioners on his part, however, submits that the petitioners had sought to file an appeal

before the AT, MCD today, but, it was refused to be accepted by the Registry of AT, MCD on some technical grounds, like absence of ID proofs, passport size photographs etc., being not available. Be that as it may, during the course of hearing, ld. Counsel for the respondents, on instructions, submits that in order to ensure that the valuable right of hearing of the petitioner is not frustrated, for three days from today, the impugned sealing order shall not be given effect to. It is also contended by the ld. Counsel for the respondents that during such period, the petitioners should also not carry out any construction activity in the subject property, which is in violation of the municipal building Bye-laws. It is a just submission.

In view of the afore-going, the writ petition is disposed off being not maintainable, but, in view of the submissions made by the ld. Counsel for the respondents, with the directions, that, for three days from today, the impugned sealing order shall not be given effect to. Simultaneously, it is also directed that meantime, the petitioners shall not carry out any construction activity in the subject premises, which is in violation of the building bye-laws of the respondent-NDMC. Petition stands disposed off accordingly. It is made clear that any observation made by this Court shall have no bearing on the merits of the pleas or contentions of either of the parties, on an appeal preferred before the AT, MCD. Petition stands disposed off accordingly.

Dasti under the signatures of Court Master.

A. K. CHAWLA, J

OCTOBER 24, 2017

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