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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **W.P.(C) 2146/2018, CM No. 8882/2018**
SH. KARTAR SINGH

..... Petitioner

Through: Mr. Himanshu Sharma and
Ms. Aditi Sharma, Advs.

versus

SOUTH DELHI MUNICIPAL CORPORATION AND ORS.

..... Respondents

Through: Mr. Ajay Digpaul and
Ms. M. Dhingra, Advs. for SDMC

CORAM:
HON'BLE MR. JUSTICE V. KAMESWAR RAO

ORDER

% **07.03.2018**

The present petition has been listed pursuant to a mentioning made by the learned counsel for the petitioner before Hon'ble the Acting Chief Justice vide supplementary list circulated in the post lunch session. The matter is taken up at 05:35 P.M.

CM No. 8882/2018 (for exemption)

Exemption allowed, subject to all just exceptions.

Application stands disposed of.

W.P.(C) 2146/2018

It is submission of the learned counsel for the petitioner that the petitioner had earlier approached this Court in W.P. (C) 8613/2016 which

was decided by this Court with the following directions:

“Be that as it may, noting that the petitioner is aggrieved by the order of sealing which order is appealable under section 347B(m) of the Delhi Municipal Corporation Act, 1957 this Court is of the view that the petitioner should approach the appellate body which would be ATMCD. The ATMCD will return a finding of these submissions and counter submissions of the parties i.e. as to whether the property bearing no. 29D/2A, Ward No.1, Mehrauli, New Delhi and property bearing no. 29D/1, Ward No.1, Mehrauli, New Delhi are one and the same property. The submission of the petitioner that they are protected under the Government of National Capital Territory of Delhi Act, 1991 shall also be considered by the ATMCD. This petition is disposed of with liberty granted to the petitioner to approach the ATMCD. Petitioner will file his petition before the ATMCD positively within a period of two weeks and in this interregnum period no coercive steps will be taken against the petitioner.”

He states, the petitioner had approached the ATMCD vide Appeal No. 181/2017 and the ATMCD vide order dated April 05, 2017 has restrained the respondent from carrying out the demolition in his property. He states that the petitioner is an owner of the property No.29-D/2A, Ward No.1, Village Mehrauli, New Delhi. The issue whether property being No.29-D/2A and 29-D/1 are the same property has to be decided by the Tribunal. Unfortunately, despite the interim order a notice dated March 06, 2018 has been affixed on the petitioner's property calling upon the petitioner to vacate the premises within 48 hours. He states that even though the property's

address has been referred to as 29D/1 in the impugned notice as the same has been affixed on the petitioners property, the petitioner had to approach this Court. Learned counsel for the petitioner also states that the appeal is still pending before the ATMCD.

Mr. Ajay Digpaul, learned counsel for the respondent No.1 states that the petitioner should have approached the Tribunal where the appeal is still pending.

Learned counsel for the petitioner states, he has no objection in approaching the ATMCD, if the respondent No.1 is directed not to take coercive action in terms of notice dated March 06, 2018.

Noting the aforesaid submissions of the learned counsel for the parties present, the fact, the appeal filed by the petitioner is pending consideration before the ATMCD, which has granted protection the petitioner must approach the ATMCD by tomorrow evening for appropriate relief.

At this stage, Mr. Ajay Digpaul states that he shall also instruct the respondent No.1 officers not to take any coercive steps against the petitioner for two days. The statement is taken on record.

In view of the above, the petition is dismissed as withdrawn with the liberty to the petitioner to approach the ATMCD by tomorrow i.e. March 08,

2018 for appropriate relief.

The petition is dismissed as withdrawn.

Dasti.

V. KAMESWAR RAO, J

MARCH 07, 2018*/aky*