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

+ **W.P.(C) 3864/2018**

**PRAJPITA BRAHMA KUMARI R VENKATA KANAKA  
RATNAM AND ORS. .... Petitioners**

Through: **Mr. Amol Kokane, Adv.**

versus

**NORTH DELHI MUNICIPAL CORPORATION ..... Respondent**

Through: **Ms. Mini Pushkarna, Standing  
Counsel with Ms. Mini Pushkarna,  
Ms. Swagata Bhuyan and Ms. Rekha  
Goswami, Advs.**

**CORAM:**

**HON'BLE MR. JUSTICE V. KAMESWAR RAO**

**ORDER**

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**20.04.2018**

**CM Nos. 15256 and 15257/2018 (for exemptions)**

Exemptions allowed subject to all just exceptions.

Applications stand disposed of.

**W.P.(C) 3864/2018**

Present petition has been filed by the petitioners with the following prayers:

*"It is therefore most respectfully prayed that this Hon'ble Court may be pleased to:*

- a) *Quash / set aside show cause notice u/s 345 A of DMC Act, 1957, dated 19-12-2017 and sealing order dated 30-01-2018 passed by the Respondent in respect of the property bearing No.A-346 to 349, 351 and 352, Vijay Vihar, Phase-1, Pocket-A, Delhi-85.*

- b) Quash / set aside order dated 27-2-2018 passed by Ld. P.O. Appellate Tribunal, Tis Hazari.*
- c) Direct the Respondents not to take any coercive / sealing action in respect of the property bearing NO.A-346 to 349, 351 and 352, Vijay Vihar, Phase-I, Pocket-A, Delhi – 85.*
- d) Any other relief to which the petitioners are entitled or this Hon'ble Court deems fit may also be granted.”*

It is noted from the writ petition and contended by the learned counsel for the petitioners that against the sealing order dated January 30, 2018, petitioners had filed an Appeal being 95/ATMCD/2018. The said appeal was rejected by the Tribunal vide order dated February 17, 2018. The petitioners challenged the said order by way of an Appeal before the learned District and Sessions Judge, who issued notice on the Appeal for May 10, 2018. Learned counsel for the petitioners contend that an application was filed on April 9, 2018 before the learned District and Sessions Judge seeking urgent hearing of the appeal. He draws my attention to Page 81 of the paper book to show the noting as made by the learned District and Sessions Judge to the extent as the Board does not permit preponment of the date, the application be listed for the date already fixed.

Learned counsel for the petitioner's only contention is that he shall be satisfied if the learned District and Sessions Judge consider the application for urgent hearing, which was filed by the petitioners on April 9, 2018, and pass orders as according to him, there is serious apprehension that the respondent may seal the premises.

Noting the only submission made by the learned counsel for the

petitioners, it must be held that the petition per-se is not maintainable when an appeal is pending consideration before the learned District and Sessions Judge. The only order that can be passed in the facts is that the petitioners may file an application requesting the learned District and Sessions Judge for considering the application for urgent hearing of the appeal dated April 09, 2018 in view of the apprehension that the respondent may seal the property. This I say so for the reason that if the learned District and Sessions Judge has taken a view that keeping in view the position of the Board, it is not possible to prepone the date, it is not for this Court to regulate the Board of the learned District and Sessions Judge. In view of the order, the learned counsel for the petitioners seeks to withdraw the writ petition. The petition is dismissed as withdrawn.

*Dasti.*

**CM Nos. 15255/2018**

In view of the order passed in the petition, the application has become infructuous.

**V. KAMESWAR RAO, J**

**APRIL 20, 2018/jg**