

\$~54

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

+ W.P.(C) 4063/2018

DHARAMPAL AND ORS.

..... Petitioners

Through: Mr. Asish Nishchal, Mr. Arun
Nischal and Mr. Vikram Kakkar,
Advts.

versus

NORTH DELHI MUNICIPAL CORPORATION (NDMC)

ANR.

..... Respondents

Through: Ms. Puja Kalra, Adv. with Chaman
for R1 and R2, Asst. Engr. (KB2)

CORAM:

HON'BLE MR. JUSTICE V. KAMESWAR RAO

ORDER

% **24.04.2018**

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

- “i. Writ of Mandamus be issued quashing both the impugned notices dated 20.04.2018 (Annexure P-2 Colly);*
- ii. Any other order (s) as this Hon’ble Court may deem fit and proper in the facts and circumstances of the case.”*

It is the submission of the learned counsel for the petitioners that the impugned action has been taken by the respondents without a show-cause notice; hearing them and without providing any material. He disputes the stand of the respondents / NDMC that the property needs to be demolished. It is the submission of the learned counsel for the petitioners that the

petitioners herein are the tenants and co-owners of two shops at the ground floor of the property being 2665, Khasra No. 216 & 218, Block-L, Gali No. 2 and 3, situated at Beadon Pura, Karol Bagh, New Delhi. He states, in terms of provisions of Section 348 of the DMC Act, 1957, the corporation can permit the petitioners to repair the deficiencies, if any, in the property. According to him, if the deficiencies are rectified, the property need not to be demolished as sought to be done by the respondents in the impugned communication. He states, the petitioners would be satisfied if the respondents consider the writ petition as a representation wherein the petitioners have controverted the stand of the respondents with regard to the demolition of the property.

On the other hand, learned counsel for the respondents contest the writ petition by stating that the impugned action has been taken by the respondents on the basis of a complaint received from the owner of the property and based on the survey report carried out and on the recommendation of the Structural Engineer of the respondents. It is her submission that there is proper application of mind with regard to the impugned action. She has placed before the Court the file where decision has been taken. In substance, it is her submission that the action has been taken in view of the obligation casted on the Commissioner / delegatee in terms of Sections 348 and 349 of the DMC Act. According to her, the continuance of the building at the place would be fatal to the public at large if it collapses and it is precisely for that reason, petitioners herein have been called upon to demolish the building in larger public interest.

Having heard the learned counsel for the parties, this Court is of the view that as the learned counsel for the petitioners submitted that no

material has been given by the respondents to the petitioners in support of their action and because of which the petitioners were handicapped to make a detailed representation, in the fitness of things, I deem it appropriate to direct the respondents to consider the writ petition filed by the petitioners along with the documents and pass a detail and speaking order within a period of 10 days from today. Mr. Ashish Nishchal, learned counsel for the petitioners state, the aforesaid shall satisfy the grievance of the petitioners.

With the above direction, the petition is disposed of.

It goes without saying that till such time the order is passed, no coercive action shall be taken by the respondents.

CM No. 16004/2018

In view of the order passed in the petition, the application has become infructuous and dismissed as such.

Dasti.

V. KAMESWAR RAO, J

APRIL 24, 2018/jg