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

+ W.P.(C) 4381/2018

ANJU SHARMA AND ANR.

..... Petitioners

Through: Mr L. M. Asthana, Mr Siddhant
Asthana, Mr Chhetarpal Singh and
Mr Peeyush Ranjan, Advocates.

versus

GOVT. OF NCT AND ORS.

..... Respondents

Through: Mr Prabhsahay Kaur, Advocate for
GNCTD/R-1 with Mr Raminder
Kumar, Executive Engineer,
Irrigation and Flood Control Project.
Ms Namrata Mukim, Advocate for
South MCD with Ms Anushruti,
Advocate for R-3/South MCD.
Mr Vineet Anand, Advocate for R-4
to R-8.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

ORDER

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30.08.2018

CM No. 16998/2018

1. Allowed, subject to all just exceptions.

W.P.(C) 4381/2018 & CM No. 16997/2018

2. The petitioners have filed the present petition, *inter alia*, impugning an order dated 06.04.2018 passed by respondent no.2 (Sub-Divisional Magistrate South) informing the petitioners that a demolition drive is fixed for 13.04.2018 and calling upon the petitioners to be present at the site for

removal of encroachment. The controversy relates to a shop that was being run by the petitioners – shop no.4 measuring 120 sq. ft., Aurobindo Marg, Village Adchini, Mehrauli. The petitioners claim that the said shop was allotted to the petitioners by respondent nos.4 to 8 in the year 1980. The petitioners also claim that they had also paid rent for the said shop (which was subdivided) to respondent no.4, Adchini Residents Welfare Association (hereafter ‘RWA’) for several years. The petitioners state that subsequently the petitioners stopped paying rent, as they were informed that the RWA is not the owner of the shop in which the petitioners had been inducted.

3. The petitioners’ shop was subsequently demolished by the SDM and it is stated that a new construction is being raised on the said land. It is in this context, as the petitioners had approached this Court for praying that directions be given to the respondents to restore the shop (i.e. shop no.4, Aurobindo Marg, Village Adchini, Mehrauli) that had been demolished.

4. The said shop has been demolished and the petitioners have been removed from the site. Although, it is contended that the petitioners were rightly inducted, it is clear from the averments that respondent nos.4 to 8, who the petitioners claim had inducted them into the shop, also are not the owners of the shop in question. Since, it is apparent that the petitioners have no right to the site in question, no relief can be granted to the petitioners.

5. The remaining issue that has been canvassed before this Court is regarding further construction that had been raised on the said site. Ms Kaur, the learned counsel appearing for respondent nos.1 and 2 states that the said land belongs to the Gram Sabha and a *Chaupal* is being constructed. Concededly, no permission has been obtained from respondent no.3 (South Delhi Municipal Corporation – hereafter ‘SDMC’) for raising such

construction.

6. SDMC has also filed a status report dated 30.08.2018 indicating that certain buildings were exempt from obtaining sanction; however, the building in question is not one of those buildings. This is disputed by Ms Kaur.

7. In the facts of this case, the question whether the construction being raised lawfully is not required to detain this Court any further. Since it is SDMC's stand that the said construction is being raised contrary to law, SDMC shall take all necessary actions that are available in law.

8. Needless to state that all contentions of respondent nos.1 and 2 in this regard are also reserved. All interim orders are vacated leaving it open for the SDMC to take such action as available in law.

9. The petition is disposed of. The pending application also stands disposed of.

10. Order *dasti* under signatures of the Court Master.

VIBHU BAKHRU, J

AUGUST 30, 2018
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