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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ W.P.(C) 6125/2018, CM No. 23763/2018
M/S ASTO ESTATE PVT. LTD. Petitioner
Through: Ms. Nidhi Mohan, Adv.

versus

SOUTH DELHI MUNICIPAL CORPORATION AND ANR.
..... Respondents
Through: Mr. G.D. Mishra, Standing Counsel
for SDMC with Mr. Rajesh Tewatia,
AE(B) for SDMC

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

ORDER
% **30.05.2018**

CM No. 23763/2018 (for exemption)

Exemption allowed, subject to all just exceptions.

Application stands disposed of.

W.P.(C) 6125/2018

1. The present petition has been filed by the petitioner with the following prayers:

“In the facts and circumstances of the present case, it is prayed that this Hon’ble Court may be pleased to:

- a) *Issue a Writ of Certiorari under Article 226 of the Constitution of India or any other appropriate writ, order or direction quashing the order of sealing dated 22.09.2010 issued by the respondents being in contravention of the provisions of National Capital Territory of Delhi Law (Special Provisions) Act, 2011;*

- b) *Issue an appropriate Writ, order or direction to the respondents to consider the representations of the petitioner and to pass speaking order in regard to the same;*
- c) *Pass any other or further order(s) that this Hon'ble Court may deem to be just, fair and equitable."*

2. It is the submission of the learned counsel for the petitioner that despite representations made by the petitioner, the same have not been answered. She states, the petitioner would be satisfied, if the respondents clarifies the doubt of the petitioner whether the deviation in the basement are compoundable.

3. Suffice to state, the plea now being urged as to whether the deviation in the basement are compoundable arises from the sealing order dated September 22, 2010. Even the representations made by the petitioner read as under:

"8. From perusal of the documents received from your good self, it is clear that the orders of de-sealing have been passed on the pretext of a defective basement approximately three inch below ground level. The sad deviation is not major deviation which would entail sealing of the property.

9. The undersigned therefore requests you to kindly de-seal the property to enable the undersigned to use the same for its own benefits. In case, if there is any deviation the undersigned is willing to pay compensatory charges for the same.

10. It is a settled law that a property cannot be sealed in perpetuity. In view of the above, it is requested that an order of de-sealing may be passed so that the undersigned can enjoy the

property.”

4. The contents of the representation made by the petitioner clearly reveals that the petitioner is also asking for de-sealing of the property, the remedy for the petitioner for de-sealing is before the ATMCD.

5. Till such time, the said order is challenged and set aside, the relief / prayer of the petitioner to inform it on the nature of deviations and whether compoundable cannot be considered. There being an alternative remedy before ATMCD, I do not see any reason to entertain the present petition. The same is dismissed.

V. KAMESWAR RAO, J

MAY 30, 2018/aky