

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

Date of Order: November 14, 2018

+ **W.P.(C) 740/2014 & C.M.1488/2014**

NORTH DELHI MUNICIPAL CORPORATION Petitioner

Through: Mr. Ajjay Arorra and Mr. Kapil
Dutta, Advocates

versus

AVINASH BANSAL Respondent

Through: Mr. Vivek Sood, Senior Advocate
with Mr. Umesh Mishra and Mr.
Ashim, Advocates

CORAM:

HON'BLE MR. JUSTICE SUNIL GAUR

ORDER

1. Impugned order of 22nd May, 2012 directs that respondent will be entitled to use the subject land for social functions subject to condition that an undertaking would be furnished to the effect that respondent shall comply with all the Guidelines except formal permission from the Committee as mentioned in the Guidelines No.1 to 5 and that the re-development work shall be completed within the time decided by the authorities. Impugned order also permits respondent to avail of the benefits of the provisions of *the National Capital Territory of Delhi Laws (Special Provisions) Second Act, 2011*.
2. The challenge to impugned order by learned counsel for petitioner is on the ground that the aforesaid enactment does not apply to the instant case.

It is submitted that the subject land is a '*non-conforming industrial area*' and so, the subject land cannot be used for purpose of Farm House/Banquet Hall. It is also submitted that there is no sanctioned plan for the subject land and so, the impugned order deserves to be set aside.

3. On the contrary, learned senior counsel for respondent-*Proprietor of Abhinandan Vatiaka* supports the impugned order and submits that Open Area/*Vatika* comes under the ambit of Banquet Hall and to submit so, reliance is placed upon Resolution/Circular No.530 of 17th February, 2014. Thus, it is submitted that there is no substance in this petition and the impugned order deserves to be maintained.

4. Petitioner's counsel submits that the life of the Resolution No.530 was till moratorium i.e. operation of the Delhi Laws Act of 2014. Mr. Sood, learned senior counsel for respondent, submits that the aforesaid enactment has been extended till 2020.

5. Upon hearing and on perusal of impugned order and the material on record, I find that undisputedly the subject land is situated in non-conforming clusters of industrial area. As per Circular of 10th July, 2014 on the issue of special permit for Banquet Halls, Farm-House, etc., are permitted in industrial and commercial area as per MPD-2021. It is matter of record that the Lieutenant Governor of Delhi vide Notification of 16th May, 2017 has declared this area i.e. wherein the subject land is located, as urbanized.

6. In the writ petition, there is reference to a decision of Division Bench of this Court in *Brashtachar Virodhi Sangathan v. Lt. Governor and Ors.*, in W.P. (C) 14261/2004 and *Kailash Sharma v. NCT of Delhi*, 2009 DLT SCC OnLine. In view of Circular of 10th July, 2014, as referred to above,

reference to these decisions is of no avail. Applicability of provisions of *the National Capital Territory of Delhi Laws (Special Provisions) Second Act, 2011*, does not cease as the benefit of aforesaid enactment has been subsequently extended from time to time and the protection of this Act is available to respondent because the alleged mis-user is since the year prior to year 2007. It is also matter of record that health trade licence has been already issued to respondent by the concerned authority. It is evident from Minutes of the Meeting of January, 2014 (*Annexure R-17*) that banquet halls are permitted in industrial and commercial area and the policy for issue of special permits/licences to them is endorsed. By virtue of *the National Capital Territory of Delhi Laws (Special Provisions) Second (Amendment) Act, 2017*, operation of *the National Capital Territory of Delhi Laws (Special Provisions) Second Act, 2011* is upto 31st December, 2020. No document to the contrary is on record.

7. In light of aforesaid, challenge to impugned order fails. Accordingly, this petition and the pending application are dismissed.

(SUNIL GAUR)
JUDGE

NOVEMBER 14, 2018

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