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* IN THE HIGH COURT OF DELHI AT NEW DELHI

Date of decision: 29th November, 2018

+ W.P.(C) 10896/2018

GURUDWARA GOBIND GARH SOCIETY Petitioner

Through: Mr. Santosh Kumar and
Mr. Shivam Parihar, Advs.

versus

EAST DELHI MUNICIPAL CORPORATION Respondent

Through: Ms. Shity Vats, Adv.

CORAM:

HON'BLE MR. JUSTICE C. HARI SHANKAR

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J U D G M E N T (O R A L)

1. The petitioner – Gurudwara Gobind Garh Society claims to be a society registered under the Societies' Registration Act on 13th May, 2012. The writ petition avers that, by way of a registered gift deed, dated 3rd December, 2012, issued by S. Amarpal Singh Soofi, Plot No. 7, Khasra No. 587/377, Mohan Block Rohtash Nagar, Shahdara, was gifted to the petitioner. Pursuant thereto the petitioner submitted an application, on 9th April, 2018, to the Municipal Corporation of Delhi, seeking sanction of the building plan with respect to the said property, for the purpose of carrying out further construction thereon. It is averred that the requisite building permit fee of ₹ 9580/- was also paid therewith.

2. The writ petition further avers that, *vide* order dated 11th May, 2018, the petitioner's application was rejected. The said order, which,

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ex facia, is hypercryptic in nature, read thus :

“To,
Jasbir Singh
1/6063 Kabool Nagar, Double storey Quarters, Shahdra
Delhi
New Delhi

REFUSAL OF SANCITON

With reference to your application No. 10047405 dated 09/04/2018 for the grant of sanction for the erection of building/execution of work in House No. _____ Plot No. 7, Block No, Mohan Scheme _____ Situated at Plot No. 7 Khasra no. 587/377, Mohan block, Rohtas nagar, shahdra, Delhi-110032. I am directed to inform you that the sanction has been refused on 11/05/2018 on the following grounds

Yours faithfully
For authority/concerned local body EAST DMC
Assistance Engineer (Building)
HQ”

3. In view of the fact that the reasons were not reflected on the body of the above order, I had called for the presence of the Executive Engineer, who had issued the said order. Mr. Vipin Kumar, Executive Engineer, is present in person and submits that, in fact, the objections to the application of the petitioner were communicated, to him, online at his I.D. No. 10047405, which happened to be the I.D. of the petitioner's architect, on which apparently, communications could be sent by the respondent.

4. The said objections are reproduced in para 5 of the Status Report, filed by the respondent in response to the writ petition, which reads thus :

“5. That the application submitted online for sanction of plan vide 10 No.10047405 dated 09.04.2018 was processed and in

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was issued on 10.04.2018 indicating the following deficiencies:-

“1. The applicant Sh. Jasbir Singh is not the owner of the plot as per the ownership document kindly modify the same.

2. Memorandum of the society and resolution in favour of the authorised signatory to be uploaded.

3. The file may be sent to the TP Department if the width of surrounding road are not mentioned in the part layout plan. The final observation will be conveyed after TP comments if required.”

5. Para 6 of the Status Report, which follows para 5, reads as under :

“6. That from the dash board it appears that some reply was fed into the system on behalf of Petitioner, but the online application was not referred back to the EDMC for consideration of the reply. Therefore, the application was not reflected on the dash board of the concerned officer of the EDMC within the threshold time limit and could not have processed further. It is submitted that as per online sanctioned building plan portal, 30 days was the threshold time limit to reply to the observations/IN. After crossing the threshold time limit and considering that no reply to the IN dated 10.04.2018 has been sent on behalf of the Applicant, the system automatically rejected the application submitted vide 10 NO.10047405 dated 09.04.2018 by sending auto reply on 11.05.2018 rejecting the said application with the following observation: -

"REJECTED FROM BACKEND DUE TO
CROSSING THRESHOLD TIME LIMIT"

6. Ms. Shity Vats, learned counsel appearing for the respondents, contends, on instructions of his clients, who are present in court, that, where the response, to the objections raised by the respondents, are

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not sent, by the concerned architect/applicant within thirty days, the system automatically rejects the application of the applicant/architect. Thereafter, it is stated, if the dash-board of the architect is accessed, it is possible to know that the reply was fed into the system, though it was not sent. On this basis, the respondents contend, they came to know, after the period of the thirty days had expired and the application of the petitioner/its architect, had stood rejected by efflux of time, that, though some response to the afore-extracted objections of the respondent had apparently been fed into the system by the architect, it had not been forwarded to the EDMC for consideration.

7. It is unfortunate that the writ petition does not disclose the fact of the objections having been raised by the respondent on 9th April, 2018, or of the reply thereto, by the petitioner/its architect, purportedly dated 25th April, 2018.

8. Mr. Santosh Kumar, learned counsel appearing for the petitioner, submits that the petitioner's architect had, in fact, submitted a response to the afore-mentioned objections raised by the respondents.

9. It is not possible for this Court to know whether the response to the objections were actually dispatched onward, by the petitioner/its architect, by sending the same online to the respondents.

10. In view of the fact that the writ petition does not even disclose the fact of objections having been raised by the respondent, this Court

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is inclined to believe the submission of the respondent, as contained in the status report, that the said reply, though fed into the system by the petitioner/its architect, was never forwarded/sent to the EDMC.

11. Mr. Vipin Kumar, Executive Engineer (B) HQ and Mr. Babu Ram, Assistant Engineer (B) HQ, who are present in Court, submit that the system would not permit consideration of the response, of the petitioner, to the afore-extracted objections raised by the respondents, once the petitioner's application stands rejected by efflux of time. It is stated that the modalities of the system requires the petitioner to re-submit its application.

12. In order to bring a quietus to the issue, I deem it appropriate to dispose of this writ petition with the following directions :

(i) The petitioner shall submit a fresh application, for sanction of building plan, online, to the respondent. The application would be submitted in the name of the petitioner and not in the name of, inasmuch as the petitioner claims to be the owner of the plot in question. The application be submitted within a period of two weeks from today.

(ii) The respondents are directed to process the application and communicate the objections thereto, if any, within a period of two weeks from the submission of the application.

(iii) On communication of the said objections, if any, the petitioners would respond to the objections within a period of

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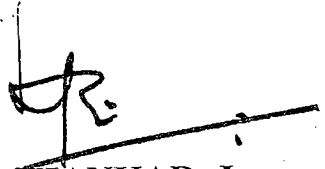
one week of the receipt of the objections. Needless to say, this time, the petitioner would ensure that it forwards the objection to the EDMC online, as provided in the system.

(iv) The respondents are directed to take a final decision on the petitioner's application within a period of two weeks therefrom.

13. Needless to say, if the petitioner remains aggrieved by the decision has taken by the respondent, its remedies in law would remained reserved.

14. As the whole exercise is being directed to be undertaken afresh, the communication dated 11th May, 2018, needless to say would not survive.

15. The writ petition stands disposed of in the above terms with no orders as to costs.


C. HARI SHANKAR, J

NOVEMBER 29, 2018

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