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

+ **W.P.(C) 11577/2018**

**M/S COMPETENT AUTOMOBILES COMPANY LTD. AND
ANR.**

..... Petitioners

Through: Mr. Dhruv Mehta, Senior
Advocate with Mr. Yashraj Singh, Mr. S.Sinha,
Mr. Shyam Agarwal & Mr. Anmol Mehta,
Advocates

Versus

NEW DELHI MUNICIPAL COUNCIL

..... Respondent

Through: Mr. T.S.Khehar & Mr. Tushar
Sannu, Advocates

CORAM:

HON'BLE MR. JUSTICE SUNIL GAUR

ORDER

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31.10.2018

C.M. 45685/2018 (u/S 151 CPC)

Upon hearing, this application seeking early hearing of the accompanying petition, is allowed. The date of 25th March, 2019 fixed in this petition is cancelled and the matter is taken up for hearing today itself.

The application is disposed of.

W.P.(C) 11577/2018 & C.M. 44788/2018

Petitioners' request for de-sealing of stilt (*part-portion*), F-14, Competent House, Connaught Place, New Delhi, purportedly made on 4th September, 2018, has not been considered by respondent-NDMC, as vide

communication of 12th October, 2018.(Annexure P-11), petitioner has been advised to approach Monitoring Committee constituted by the Supreme Court.

Learned senior counsel for petitioner has drawn attention of this Court to Supreme Court's decision in *M.C.Mehta Vs. Union of India & Ors.* (2018) 2 SCC 144, wherein it has been clarified as under:-

“30. We make it clear that this order will enure to the benefit of only those who are using residential premises for commercial purposes (non-industrial) or for any other non-residential purpose and whose premises were sealed at the instance of the Monitoring Committee. This order will not at all enure for the benefit of anybody using residential premises for any industrial activity of any sort or nature whatsoever.”

A Division Bench of this Court in *North Delhi Municipal Corporation Vs. DCM Limited & Anr.* 2018 SCC OnLine Del 7447, has considered the aforesaid decision of Supreme Court in *M.C.Mehta (Supra)* and concluded as under:-

“As we have noticed hereinabove, the authorization of the MC by the Supreme Court from time to time has been in relation to the misuse/ non-confirming user of the residential premises for industrial or commercial purpose. The same does not relate to the alleged misuse of industrial premises for commercial purpose- which is the alleged misuse in the present case, according to the stand taken by the MC.”

In view of aforesaid, respondent-MCD's communication of 12th October, 2018.(*Annexure P-11*) is hereby set aside with direction to respondent-NDMC to reconsider petitioners' application of 4th September, 2018 (*Annexure P-10*) within a period of four weeks, as petitioners claim to have deposited the penalty imposed upon it.

With aforesaid directions, this petition and application are disposed of.

Dasti.

(SUNIL GAUR)
JUDGE

OCTOBER 31, 2018

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