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

+ **W.P.(C) 8443/2017**

VINOD KUMAR DHINGRA AND ANR. Petitioners

Through: Mr. A. Maitri and Ms. Radhika
Chandrashekhar, Advs.

versus

**NORTH DELHI MUNICIPAL CORPORATION AND
ORS.** Respondents

Through: Mr. Mukesh Gupta, Standing Counsel
with Mr. Vinayak Gupta, Adv. for R1
and R2.
Mr. Kirti Uppal, Sr.Adv. with
Mr. Siddharth Chopra, Adv. for R3.

CORAM:

HON'BLE MR. JUSTICE V. KAMESWAR RAO

ORDER

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26.02.2018

CM No. 34766/2017 (for exemption)

Exemption allowed, subject to all just exceptions.

Application stands disposed of.

W.P.(C) 8443/2017

The status report has been filed by the respondent/North Delhi Municipal Corporation wherein in Para 3 and 4, the following has been stated:

“3. That since no sanctioned building plan in respect of property no. 1-E/13, Jhandewalan Extension was received, the North DMC has initiated action against the unauthorized construction in the shape of ground floor, first floor, second floor, third floor and half portion at fourth floor with projection of Mpl. land in this property under section 343 and 344 of DMC Act, 1957 vide file no. B/UC/KBZ/2017/339 dated 01.12.2017. It is submitted that a show cause notice to this effect was also issued and served

upon Alankit Assignments Ltd., 205-208, Anarkali Block, Jhandewalan Extension, New Delhi vide no.B/UC/KBZ/2017/339 dated 01.12.2017. It is submitted that demolition order in respect of the aforesaid unauthorized construction was also passed vide no.B/UC/KBZ/2017/339 dated 12.12.2017.

4. That a demolition action programme was planned for taking action against the unauthorized construction in the property on 03.02.2018. It is submitted that the said action could not be materialized as the property was occupied. It is submitted that accordingly a vacation notice has been issued vide no. D/AE(B)/KBZ/2018/244 dated 05.02.2018. A copy of vacation notice no.D/AE(B)/KBZ/2018/244 dated 05.02.2018 is annexed herewith as Annexure R-1/2.”

Mr. Kirti Uppal, learned Sr. Counsel appearing for respondent no. 3 makes two submissions, first one being petitioners have concealed a material fact inasmuch as respondent no.3 had filed an eviction petition against the petitioners herein which was allowed vide order dated April 1, 2017 by the Additional Rent Controller-2, Central District, Tis Hazari Courts, Delhi He states, serious view must be taken by this Court including imposing cost on the petitioners as according to him, the fact demonstrate the present petition is not in public interest but is malafide only as an offshoot of the petition filed by respondent no.3 seeking eviction of petitioners. Secondly, the respondent no.3 has since filed an Appeal before the Appellate Tribunal MCD challenging the order of demolition dated December 12, 2017, and this petition has become infructuous.

On the other hand, Mr. A. Maitri, learned counsel appearing for the petitioner concedes that Para 10 of the petition does not disclose the fact that an eviction petition was filed by respondent no.3 against the petitioners

herein and the same has been allowed in favour of the said respondent. In so far as the Appeal is concerned, Mr. Maitri states, petitioners shall be satisfied if they are allowed to seek intervention limited to the extent of filing written submissions in the appeal filed by the respondent no.3.

Noting the submissions, suffice to state, the Court is restraining itself from imposing cost on the petitioners but it warns the petitioners to be careful in future and if any petition is filed in a similar manner, heavy cost shall be imposed. Further, liberty is with the petitioners to seek intervention before the ATMCD. If such an application is filed, Tribunal shall allow the same limited to intervention for filing written submissions.

The petition stands disposed.

It is made clear that this Court has not expressed itself on the merit of the controversy including on the demolition order passed against the respondent no.3.

CM No. 34765/2017

In view of the order passed in the petition, instant application has become infructuous.

Dasti.

V. KAMESWAR RAO, J

FEBRUARY 26, 2018/jg