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IN THE HIGH COURT OF DELHI AT NEW DELHI

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W.P.(C) 9736/2017

DR. ARUN DEWAN

..... Petitioner

Through: Mr. Rajeshwar Kr. Gupta, Adv. with
petitioner in person.

versus

SOUTH DELHI MUNICIPAL CORPORATION
& ORS

..... Respondents

Through: Mr. Jaideep Malik, ASC for R1 with
Mr. S.N. Saini, Asst. Engineer.
Mr. Manish Shrama and Mr. Ninad
Dogra, Advs. for R3 to R9.

CORAM:

HON'BLE MR. JUSTICE V. KAMESWAR RAO

ORDER

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01.02.2018

1. Respondent no.1 / SDMC has filed a status report on January 27, 2018. In the status report Paras 7 to 10 reads as under: -

“7. That pursuant to filing of present petition, the official of Respondent / SDMC inspected the site. The inspection revealed change of site. The work of installation of lift was found at the proposed site for which NOC was obtained. This violation was sufficient to draw conclusion that applicants have violated the terms and conditions of NOC granted to them. The Respondent / SDMC issued show cause notice bearing No.428/AE(B)V/CNZ/2018 dated 03.01.2018 in the name of applicants who got permission / NOC for installation of lift directing them to show cause within seven days of receipt of this notice as to why NOC bearing NO.D-227/AE(Plan)/Bldg.V/CNZ/2017 dated 07.09.2017 be not

revoked. The copy of show cause notice is annexed herewith as Annexure-R-1/C.

8. That Notice filed reply dated 03/01/2018 thereby claimed that an inadvertent error in the description of number wherein Flat No. 63 is written as 61 and vice versa. The said error in the flat numbers in the site plan is not at all a misrepresentation and the same is only a nomenclature mistake. The said claim and contention of the Noticee is untenable. As a matter of fact, it is admittance of misrepresentation on the part of applicants while seeking permission / NOC for installation of lift. If the said claim is believed to be true, the Noticee were required to file application for revise permission / NOC, which they failed to do and as such permission / NOC became liable for revocation.

9. That in view of given misrepresentation, the Respondent / SDMC revoked the permission / NOC granted to the applicants vide No.477/AE(B)V/CNZ/2018 dated 22/01/2018. The copy of said revocation order is annexed herewith as Annexure-R-1/D.

10. That it is respectfully submitted that revocation of permission / NOC is not an end of process. The applicants are at liberty to seek fresh permission / NOC in accordance with aforesaid policy.”

2. The reading of the status report reveals that the permission / NOC has since been revoked, the applicants who are respondent nos. 3 to 9 herein are at liberty to seek a fresh permission / NOC. Mr. Rajeshwar Gupta, learned counsel appearing for the petitioner states in view of this position, nothing further survives in the writ petition.

3. Mr. Manish Sharma, learned counsel appearing for the respondent nos. 3 to 9 states, respondents had applied for rectification of site plan which

was submitted by them at the time of initial permission, wherein the description of two flat numbers have been inadvertently mentioned as 63 in place of 61 and 61 in place of 63. He states, even otherwise the said respondents are ready and willing to apply again for fresh permission / NOC. His only submission is the respondent/SDMC should not insist upon the submission of following documents as they have already been submitted.

“(1) Certificate of Supervision by Architect and licensed Engineer along with a copy of their valid registration certificate.

(2) Proof of ownership documents of flat: Leased Deed / Conveyance Deed shall be taken as documents for the proof of ownership. Registered Sale Deed or General Power of Attorney / Agreement to Sell shall be accepted as the proof of ownership only after the property has been converted into freehold by DDA.

(3) Certificate by proposing member (s) and structural engineer for safety from natural hazard as per the proforma prescribed by Ministry

(4) Undertaking / affidavit by the proposing member (s) regarding cost of installation / operation and maintenance of lifts.

(5) Undertaking on Letter Head of Architect / Structural Engineer for structural design as per provision of National Building Code.

(6) Indemnity Bond from all the proposing applicants indemnifying to keep SDMC harmless from any claim which anyone may, at any time, institute against the SDMC.

(7) Recommendations of lift manufacturing agency with regard to technical feasibility, location of Lift Well and

connecting bridge, safety aspect in respect of installation.

(8) List of all owner / Legal representatives / Residents using that common staircase giving status as to title (owner / tenant / vacant) and how participating in the application viz: as Proposing member / Secondary member / un-interested member.”

4. Mr. Jaideep Malik, learned counsel appearing for the respondent / SDMC states, there is no need for the respondent nos. 3 to 9 to submit the aforesaid documents as the documents already filed shall be taken into consideration. The said statement is taken on record. He states, the respondents must submit an application in prescribed proforma; four sets of plans duly signed by proposing members and Architect registered with the Council of Architecture under the Architect Act, 1972 including his / her name, addresses, telephone numbers clearly showing original construction in blue colour and proposed construction / construction to be regularized in red colour at a scale not less than 1:100 and deposit the processing fee.

5. Mr. Rajeshwar Gupta, learned counsel appearing for the petitioner states, as the petitioner has certain objections with regard to the construction of lift including the site, respondent no.1 while considering the application to be submitted by the respondent nos.3 to 9 for a fresh NOC / permission should also hear the petitioner. Counsel for the respondent no. 1 has no objection in that regard.

6. Having noted the submissions of the counsel for the parties, it is directed, on the respondent nos. 3 to 9 submitting their application form along with documents as noted above on Tuesday, i.e., February 6, 2018, petitioner and the representative of the respondent nos. 3 to 9 shall appear before the Executive Engineer (Building) Central Zone on Friday, i.e.,

February 9, 2018 at 3 PM when the Officer shall hear the petitioner and the respondents and pass a reasoned order on the application within two weeks and communicate the same to the petitioner and the respondent nos. 3 to 9. Any party having grievance shall be at liberty to seek such remedy as available to it in accordance with law.

8. It is made clear that, respondent nos. 1 and 2 shall consider the application without being influenced by the order dated January 22.01.2018.

The petition stands disposed of.

CM. Nos. 39623/2017 and 44771/2017

In view of the order passed in the writ petition, the applications have become infructuous and disposed of as such.

V. KAMESWAR RAO, J

FEBRUARY 01, 2018/jg