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

+ W.P.(C) 9936/2017, CM Nos. 40505/2017 & 45856/2017

VISHWAL NATHI NANDA

..... Petitioner

Through: Mr. Anup J. Bhambani, Sr. Adv. with
Mr. Rajat Arora, Adv.

versus

SOUTH DELHI MUNICIPAL CORPORATION
AND ORS.

..... Respondents

Through: Mr. Kapil Dutta, Adv. for Mr. Ajay
Arora, Adv. for R1.
Mr. Rajesh Aggarwal, Adv. for R2.

CORAM:

HON'BLE MR. JUSTICE V. KAMESWAR RAO

ORDER

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09.01.2018

W.P.(C) 9936/2017

1. The present petition has been filed by the petitioner with the following prayers:

“It is, therefore, most respectfully prayed to this Hon’ble Court may be pleased to:

a. Issue a writ of, or in the nature of, mandamus or any other appropriate writ, direction or Order, directing the Respondent No.1 to cancel the plan sanctioned vide sanction letter dated 11.05.2017 relating to Plot No.B-21, Geetanjali Enclave, New Delhi;

b. Issue a writ of, or in the nature of, mandamus or any other appropriate writ, direction or Order, directing the Respondents not to permit any construction activity that would amount to sub-

division of the Plot No. B-21, Geetanjali Enclave, New Delhi; and in contravention of the municipal bye-laws of the Respondent No.1;

c. Issue a writ of, or in the nature of, mandamus or any other appropriate writ, direction or Order, directing the Respondent No.1 to inspect the said property jointly with the Petitioner or his representative and file an affidavit with respect to the permissibility of the construction activity being done by the Respondent No.2.

d. Pas any other or further order as this Hon'ble Court may deem fit.

2. The issue involved in the petition pertains to a total plot area measuring 866.67 Sq. Yds. It is a conceded position that the petitioner is the co-owner of the plot. The other co-owner of the plot has parted with his share in favour of respondent no.2.

3. Mr. Anup J. Bhambani, learned Sr. Counsel appearing for the petitioner states, the writ petition can be disposed of if the respondent No.2 agrees to the following:-

(1) that he shall not consume the FAR to be utilized by the petitioner on his 50% share of the plot. In other words, the respondent No.2 shall consume the FAR to the extent applicable for construction on his 50% of the plot area measuring 433.33 Sq. Yds. only;

(2) that he shall give NOC in favour of the petitioner to enable the petitioner apply for sanction of the plans for construction in future on his 50% share of the plot within a week from today.

4. These suggestions are accepted/agreeable by/to the learned counsel for the respondent no.2, on instructions from the respondent no.2, who is present in the court.

5. In view of the above, Mr. Bhambani states, respondent No.1 should not proceed against the petitioner for any violation committed by respondent no.2 and vice versa. Ordered accordingly.

6. Even though, Mr. Kapil Datta, learned counsel appearing for the respondent no.1 states, NOC would not suffice the purpose of the petitioner, as respondent no.2 has share of 50% in the plot and is required to sign the application and the draft plans, it is made clear, as the SDMC had processed the application of the respondent no.2 on the basis of the NOC submitted by the petitioner and without insisting on the signature of the petitioner on the application and plans, they shall also process the application of the petitioner for sanction of plans as and when submitted by the petitioner on the basis of the NOC submitted by respondent no.2 in favour of the petitioner within a week from today.

7. Mr. Bhambani states, the aforesaid would satisfy the grievance of the petitioner and no further order (s) is required to be passed in the writ petition, the same be disposed of. Ordered accordingly.

CM Nos. 40505/2017 & 45856/2017

In view of the order passed in the writ petition, the applications have become infructuous and are dismissed.

V. KAMESWAR RAO, J

JANUARY 09, 2018/jg