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IN THE HIGH COURT OF DELHI AT NEW DELHI

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W.P.(C) 11647/2017 & CM. No. 47351/2017

ROHIT MALIK & ANR

..... Petitioners

Through: Mr. Subodh K. Pathak, Ms. Pranita
Shekhar and Mr. Shashi Ranjan,
Advts.

versus

THE SOUTH DELHI MUNICIPAL CORPORATION
& ORS

..... Respondents

Through: Mr. Mukesh Gupta, Standing Counsel
with Mr. Sanjeev Garg, Adv. for
SDMC with AE Manohar Lal.

CORAM:

HON'BLE MR. JUSTICE V. KAMESWAR RAO

ORDER

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15.02.2018

The present petition has been filed by the petitioners with the following prayers:

“In view of the facts and circumstances mentioned above and in the interest of justice, it is most respectfully prayed that this Hon’ble Court may graciously be pleased to: -

(i) *Issue a writ, order or direction in the nature of Certiorari to quash the Show Cause Notice No. 378/Leg/B-II/52/17 dated 09.11.2017 (Annexure P/1) holding that petitioners have been granted deemed sanction for construction under Section 337 (1) of the D.M.C. Act; and / or*

(ii) *Issue a writ, order or direction in the nature of Certiorari or any other appropriate writ, order or*

direction to quash the Order / Letter No. 2650/AE(Blg.)/South Zone/2017 dated 05.12.2017 of the Respondents; and /or

(iii) may further be pleased to issue a writ, order or direction in the nature of Mandamus or any other appropriate writ, order or direction directing the Respondents to consider the application for regularization submitted by the Petitioners with the Respondents; and / or

(iv) may further be pleased to pass such other and further order as may be deemed just and appropriate in the premises of this case.”

Mr. Mukesh Gupta, learned Standing Counsel appearing for the respondent / SDMC states that the status report, shall be filed during the course of the day. Let the same be filed in the Registry which shall be placed on record. He has handed over a copy of the status report Paras 3 to 5 of which reads as under:

“3. That, subsequently in response to the aforesaid show cause notice the petitioner herein has submitted his response in the office of Asstt. Engineer (Bldg), South Zone/SDMC on 23.11.2017 and after considering the reply, the desired personal hearing was also extended to parties concerned.

4. That upon examining the response/submissions made by the parties concerned, the necessary Speaking demolition Order u/s 343 (1) of DMC Act, has been passed by the competent authority i.e. AE (B), South Zone / SDMC vide No. D/3297/AE(B)/SZ/2018 dated 13.02.2018 and the same has also been communicated to all the concerned, by the Building Department, South Zone. The copy of the said speaking order is annexed herewith as Annexure R-

I/A.

5. *That it is also relevant to point out that the said speaking demolition order as passed by the department is an appealable order under the relevant provisions of DMC Act, 1957 and in this regard the alternate efficacious remedy is available with the parties concerned to approach the Hon'ble Appellate Tribunal / MCD by way of filing an appeal in this regard."*

A copy of the status report has been handed over to the counsel for the petitioners who on perusal, seeks to withdraw the petition to enable the petitioners approach the Appellate Tribunal (MCD). Granting liberty to the petitioners to approach the Appellate Tribunal (MCD) against the order dated February 13, 2018, writ petition and the connected application are dismissed as withdrawn.

It is made clear that period of six days referred to in the order shall count from today.

V. KAMESWAR RAO, J

FEBRUARY 15, 2018/jg