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

+ LPA 715/2018 & C.Ms.No.53869/2018, 52950/2018, 52952/2018

MAHIPAL & ORS Appellants

Through: Ms.Parul Dureja, Adv.

Versus

SOUTH DELHI MUNICIPAL

CORPORATION & ORS

..... Respondents

Through: Ms.Puja Kalra, Adv. for SDMC.

Ms.Prabhsahay Kaur, Adv. for GNCTD.

CORAM:

HON'BLE THE CHIEF JUSTICE

HON'BLE MR. JUSTICE V. KAMESWAR RAO

ORDER

20.12.2018

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C.M.No.52953/2018 (exemptions)

Allowed, subject to all just exceptions.

LPA No.715/2018

1. Seeking exception to an interlocutory order dated 13th November, 2018 passed in a pending writ petition W.P.(C) No.8554/2018 directing for removal of unauthorised structure in the disputed property, the appeal has been filed under Clause 10 of the Letters Patent.

2. The writ petition is pending consideration before the learned writ Court and has to come up for hearing on 26th February, 2019. The writ Court has found that the construction in the property has been unauthorizedly made. First floor has already been demolished and the direction issued is that the ground floor be also demolished as it is also unauthorized construction. The appellant who claims to be occupants of Shops No.41 to 43 and 48 to 50 on the ground floor claims that they have a

valid licence issued by the Municipal Corporation and, they are not unauthorized occupant and, therefore, the property cannot be demolished. A perusal of the license (Annexure A-3) goes to show that it is a license issued by the Veterinary Department for the purpose of permitting the appellants to carry out the activities of sale of meat and chicken in the premises in question. However, this license granted by the Veterinary Department is for the purpose of sale and dispensation of meat and chicken. It is not a document evidencing the right to ownership, lease or tenancy to the premises in question. There is nothing on record to show that the premises is an unauthorized construction and the appellants have been allotted the shops on the basis of any authority from a competent authority.

3. Once the learned writ Court, on prima facie assessment, has come to the conclusion that the unauthorized structure of the disputed property be demolished, we see no reason to make an indulgence into the matter. The contention of the appellants that they have license to remain in the shop is misconceived for the simple reason that the license is only for sale of meat and chicken and is not a document or a license granting possession, ownership or tenancy right to the appellants to the shop in question.

4. Accordingly, finding no ground to interfere, we dismiss the appeal. All the pending applications shall also stand disposed of.

CHIEF JUSTICE

V. KAMESWAR RAO, J

DECEMBER 20, 2018

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