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

+ W.P. No. (C) 726/2019 & CM APPL Nos. 3200-01/2019

ANAND EDUCATION SOCIETY (REGD.) Petitioner

Through: Mr. J.P. Sengh, Senior Advocate with
Mr. Sumit Gehlot, Mr. Nikhil Bhalla,
Advocates along with Mr. Joginder
Singh Mann, Secretary of Petitioner's
Society.

versus

GOVT. OF NCT OF DELHI AND ANR. Respondents

Through: Mr. D.K. Sharma, Standing Counsel
for NDMC with Ms. Supriti Roy,
Advocate for R2.

CORAM:

HON'BLE MR. JUSTICE ANUP JAIRAM BHAMBHANI

ORDER

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22.01.2019

CM APPL. No. 3200/2019 (for exemption)

Allowed, subject to just exceptions.

The application is disposed of.

W.P. No. (C) 726/2019 & CM APPL No. 3201/2019 (for interim relief)

1. Issue notice.
2. Mr. D.K. Sharma, learned Standing Counsel appears for respondent No. 2 and accepts notice. Respondent No. 2 is the contesting party and the presence of respondent No. 1 may not be necessary for disposing of the present writ petition.

3. In brief, the genesis of the dispute is the grant of building sanction by respondent No. 2 vide communication dated 05.05.2017 to the petitioner.

4. Learned Senior Counsel appearing for the petitioner submits that the petitioner wants to demolish a certain portion shaded in *yellow* (the 'Yellow Portion') on the Sanctioned Plan annexed with the writ petition; and in lieu thereof, wants to construct the portion marked in *red* (the 'Red Portion') on the Sanctioned Plan.

5. Respondent No. 2 has already granted sanction for construction of the Red Portion *subject* however to the petitioner *first* demolishing the Yellow Portion.

6. Learned Senior Counsel for the petitioner submits that the Yellow Portion was also constructed in accordance with a duly sanctioned plan; and moreover, the petitioner being an educational institution will need to relocate the facilities presently running from the Yellow Portion, which cannot therefore be demolished immediately. In view thereof he requests that respondent No. 2 should permit the petitioner to *first* construct the Red Portion and then demolish the Yellow Portion. To this end the petitioner is willing to give an undertaking that it will, in a time bound manner, remove the Yellow Portion once the construction of the Red Portion is complete.

8. Learned counsel for respondent No. 2 has sought telephonic instruction from the Assistant Law Officer of respondent No. 2; and his only concern is that once the Red Portion is constructed, the petitioner may avoid or delay demolishing the Yellow Portion.

9. I am of the view that this apprehension can be addressed by

recording an oral undertaking by the petitioner in court ; followed by a written undertaking to respondent No. 2, whereby the petitioner will be bound to demolish the Yellow Portion in a time-bound manner. This option is acceptable to learned counsel for the petitioner as well as respondent No. 2.

10. In view of above, Mr. Sumit Gehlot, Counsel for the petitioner on instructions from Mr. Joginder Singh Mann, Secretary of the petitioner society undertakes that within a period of two months of completion of construction of the Red Portion, the petitioner shall remove the Yellow Portion shown on the Sanctioned Plan *in its entirety*. Learned counsel further states that before the petitioner uses or occupies the Red Portion, it shall vacate and discontinue using the Yellow Portion. An affidavit of undertaking to the same effect shall also be filed by the petitioner before the concerned officer of respondent No. 2 within two weeks.

11. The petitioner and its concerned officers shall be bound by the undertaking given by it in court today.

12. The writ petition is disposed of in the above terms.

ANUP JAIRAM BHAMBHANI, J.

JANUARY 22, 2019

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