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

+ W.P.(C) No. 1364/2019

DR. DAMODAR SHASTRI

..... Petitioner

Through: Mr. Sandeep Sharma, Mr. Hunny
Veer Singh, Mr. Karan Bahl and Mr.
Laksay Virmani, Advocates.

versus

SOUTH DELHI MUNICIPAL
CORPORATION & ORS

..... Respondents

Through: Ms. Prabjot Kaur Chhabra, Advocate
for R-1 & 2 with Mr. Ravi Kumar
(JE).

CORAM:

HON'BLE MR. JUSTICE ANUP JAIRAM BHAMBHANI

O R D E R

% **08.02.2019**

CM APPL. No. 6215/2019 (for exemption)

Allowed, subject to just exceptions.

Application stands disposed of.

W.P. (C) No.1364/2019 & CM APPL. NO. 6216/2019 (for interim relief)

The petitioner impugns two notices both dated 06.06.2017 and a third notice dated 01.02.2019 issued by respondents Nos. 1 & 2/SDMC.

The first notice dated 06.06.2017 has been issued under Section 348 of the Delhi Municipal Corporation Act, 1957 (DMC Act) stating that the building/house bearing No.694 Chirag Delhi, New Delhi which is occupied by the petitioner is in a dangerous condition, jeopardising the life and property of residents, passersby and people at large; and directs the petitioner to either demolish or repair the subject property. The second

notice dated 06.06.2017 has been issued under Section 349 of the DMC Act, directing the petitioner to vacate the subject property on the ground that the building is in a dangerous condition.

Notice dated 01.02.2019 has been issued under Section 349 of the DMC Act, stating that it has been established that the subject property is in a dangerous condition, jeopardising the life and property of the residents, adjoining properties, all passersby and people at large; that a notice under Section 348(4) of the DMC Act has already been issued on 06.06.2017; and that proceedings in the matter would be taken in accordance with law. The petitioner has also been called upon to vacate the subject property, failing which demolition/sealing action will be carried-out by respondents Nos. 1 & 2/SDMC.

It is the admitted position that the two notices dated 06.06.2017 were challenged by the petitioner in civil suit CS No. 815/2017 seeking permanent injunction, in which the petitioner's application under Order 39 Rule 1 & 2 of the Code of Civil Procedure, 1908 has been dismissed; that a first appeal against such dismissal is pending in the concerned Appellate Court; and that in fact, the appeal has been heard and the matter has been reserved for orders.

Clearly notice dated 01.02.2019 under Section 349 of the DMC Act is a consequence of and sequitur to the earlier notices dated 06.06.2017.

Learned counsel for the petitioner submits that notice dated 01.02.2019 however has not been challenged specifically in any proceedings other than in the present petition.

Ms. Prabjot Kaur Chhabra, learned standing counsel enters appearance on behalf of respondent Nos.1 & 2/SDMC on advance copy.

After some submissions and considering that a civil suit challenging the first two notices is pending before a competent civil court; and an appeal against dismissal of the Order XXXIX Rules 1 & 2 CPC application stands reserved for orders by an Appellate Court, Mr. Sandeep Sharma, counsel appearing for the petitioner seeks leave to withdraw this petition, with liberty to pursue alternative remedies in accordance with law.

The petition is accordingly dismissed as withdrawn, with liberty as prayed for.

ANUP JAIRAM BHAMBHANI, J.

FEBRUARY 08, 2019

Pallavi