

\$~3

*

IN THE HIGH COURT OF DELHI AT NEW DELHI

+

W.P.(C) 4285/2019 & CM. Nos. 19110/2019 and 21625/2019

BRIAN SILAS AND ANR.

..... Petitioners

Through: Mr. Arshdeep Singh and Mr. Manish
Jha, Advs.

versus

SOUTH DELHI MUNICIPAL CORPORATION

AND ORS.

..... Respondents

Through: Mr. Kushal Vajani, Mr. Paras Anand
and Mr. Junaid Qureshi, Advs. for
SDMC.

CORAM:

HON'BLE MR. JUSTICE V. KAMESWAR RAO

ORDER

%

16.05.2019

This petition has been filed by the petitioners with the following
prayers:

“Wherefore it is prayed that this Hon’ble Court may be pleased to:

- I. Issue a writ of certiorari or any other appropriate writ, order or direction quashing the order / communication No. ‘D/1956/EE(B)-I/SZ/2015’ dated 17.12.2015 issued by Respondent no.1;*
- II. Issue a writ in the nature of mandamus or any other appropriate writ, order or direction directing the Respondent No.1 to forthwith examine the petitioner’s application for regularization of alternation / construction works carried out at S-112, Panchsheel Park, New Delhi – 110017, without insisting for a ‘No Objection Certificate (NOC)’ from owners of the other floors;*
- III. Pass any other order in the interests of justice, equity and good conscience.*

In substance the grievance of the petitioners is that the respondent SDMC is insisting upon NOC / signatures from the other occupants of the property. Learned counsel appearing for the respondent SDMC on instructions from Mr. Ravi Kumar, Asstt. Engineer, states that the grievance of the petitioners has been examined post last date of hearing and a communication was sent to the petitioners herein on April 29, 2019, wherein the following has been stated:

***Sub: Regularization of Existing Building on P. No. S-112
(Second and Third Floor), Panchsheel Park, New Delhi.***

Ref: File No. 38/RZN/B/SZ/15/I dated 18.11.2015.

Sir / Madam,

Kindly refer to your representation dated 22.10.2018 on the above subject.

The matter has been got re-examined. It is to inform that decision earlier conveyed to you vide this office letter No. D/1956/EE (B)-I/SZ/2015 dated 17.12.2015 is still in operation as at present, there is no policy for sanction of building plans of regularization of existing construction in respect of individual floors. The building plans are being considered for sanction of the entire plot in accordance with the relevant provisions of Master Plan – 2021, Building Bye-Laws-2016 etc. and all co-owners of entire property are required to submit an application jointly signed by them with requisite ownership documents and drawings etc. You will appreciate that a policy on this issue has been prepared by the Office of Superintending Engineer (Blg) HQ-South Delhi Municipal Corporation, but the same has been forwarded to the higher authorities and final decision is awaited in the matter.

In substance, the stand of the respondent SDMC as contended by Mr. Vajani is, if the petitioners through a registered Architect submit an online application for regularization as per the requirements thereof without NOC / signatures of the other occupants of the property, the application shall be considered and an order shall be passed thereafter, which shall be communicated to the petitioners. Learned counsel appearing for the petitioners is aggregable to the submission made by the learned counsel for the respondent SDMC.

If that be so, petitioners shall submit an application, online through a registered architect giving all the details as sought for by the respondent SDMC and on receipt of the application, SDMC shall consider the same and pass appropriate orders.

If the petitioners still have any grievance, they shall be within their rights to agitate it, in accordance with law.

The petition stands disposed of.

Dasti.

V. KAMESWAR RAO, J

MAY 16, 2019/jg