

\$~6

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

Date of decision: 11th September, 2019

+ LPA 381/2019 & CM APPL. 26582/2019

SHELLEY GROVER & ANR Appellants
Through: Mr. Sameer Rohatgi, Adv. with
Mr. Akshit Pradhan, Adv.

versus

NEW DELHI MUNICIPAL COUNCIL Respondent
Through: Mr. Anil Grover, SC for R-1
with Mr. Yogender Handoo,
ASC and Ms.Mishal Vig, Adv.

CORAM:
HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE C.HARI SHANKAR

ORDER
11.09.2019

%

D.N. PATEL, CHIEF JUSTICE (ORAL)

1. This appellant is the original petitioner in W.P.(C) 6758/2017 in which interim order dated 14th December, 2017 has been passed by the learned Single Judge annexed as (Annexure P-2 to the memo of this appeal).

2. Learned counsel for the appellant (original petitioner) had submitted that this appellant is in search of approved sanction plan for additional construction. This approval was given by the respondent on 24th April, 2015.

3. Learned counsel for the appellant (original petitioner) for the submitted that though the plan was approved on 24th April, 2015, the respondents has not returned the approved plan and therefore this appellant (original petitioner) could not start the additional construction.

4. Learned counsel for the appellant (original petitioner) submitted that to get the approved plan from the respondent, the writ petition being W.P.(C) 6758/2017 was preferred before this Court. In the interim order passed by the learned Single Judge on 14th December, 2017 in W.P.(C) 6758/2017 it has been mentioned that the case of this appellant(original petitioner) will be placed before the New Delhi Municipal Council- Respondent herein, because the case of other three persons similar as to the case of this appellant(original petitioner) are pending consideration. On the basis of the arguments canvassed by learned counsel for the respondent-NDMC before the learned writ court, such direction was granted by the learned Single Judge. Aggrieved by the order dated 14th December, 2017 passed in W.P.(C) 6758/2017, this Letters Patent Appeal has been preferred in which the main contention raised by learned counsel for the petitioner is that the case of this appellant cannot be equated with the case of other three persons, as pointed by learned counsel for the NDMC, before the writ court.

5. Having heard learned counsel for the appellant (original petitioner) and looking to the interim orders passed by the learned

Single Judge dated 14th December, 2017 in W.P.(C) 6758/2017 (Annexure P-2/A), it appears that the contention raised by learned counsel for the NDMC before the writ court was to the effect that the case of this appellant (original petitioner) was similar to other three persons; hence the case of this appellant along with the case of other persons was to be placed before the New Delhi Municipal Corporation (NDMC) which was scheduled in the month of January, 2018 and the learned Single Judge has observed that the decision will be taken by the NDMC in a next meeting and the queries raised in the writ petition shall be answered by the NDMC. For ready reference, the order dated 14th December, 2017 passed by the learned Single Judge in W.P.(C) 6758/2017, reads as under:

“Rejoinder has been filed. Learned senior counsel for the petitioner points out that it was way back as on 24.04.2015 (annexure P-11) a communication had been received by the petitioner from the Deputy Director, Estates informing him that his plans for additional construction have been approved. Submission is that till date he has not been able to carry out any construction on his plot of land for no fault of his. Additional submission being that in the counter affidavit for respondent, the respondent has admitted that the fire clearance and the DUAC clearance has also been obtained by the petitioner.

Learned counsel for the respondent under instructions submits that the case of the petitioner is like three other persons who had also been allotted coal depots (at the initial stage) and the plans for additional constructions of the afore noted plots of land being a policy decision have to be placed before the meeting of the New Delhi Municipal Council which is now scheduled in the month of January 2018.

Learned counsel for the respondent will ensure that the case of the petitioner is placed in the next meeting of

the New Delhi Municipal Council and the queries raised in the present petition shall be answered by the New Delhi Municipal Council in the aforementioned meeting; the decision taken shall be communicated forthwith to the petitioner.

List for directions and further proceedings on 12.02.2018.

6. In view of the aforesaid observations of the learned Single Judge, it cannot be said that the contention of this appellant (original petitioner), that the case is not comparable to the case of the other three persons, as pointed out by learned counsel for the NDMC, in the writ petition.

7. Moreover, learned counsel for the appellant (original petitioner) has also placed reliance upon Annexure P-9 which is the letter dated 14th December, 2017 written by New Delhi Municipal Council.

8. Thus, the contention of this appellant (original petitioner) in this LPA has remained same as it was before the learned Single Judge that his case is not like the case of other three similarly situated persons, as pointed by learned counsel for the New Delhi Municipal Council. Moreover, the writ petition preferred by this appellant (original petitioner) is still pending before the learned Single Judge being W.P.(C) 6758/2017 and the contentions raised by this appellant herein can be agitated before the learned Single Judge in accordance with law with proper pleadings and annexures.

9. With these observations, this appeal is hereby disposed of.

CM APPL. 26582/2019 in LPA 381/2019

1. In view of the order passed in the appeal, this application stands disposed of.

CHIEF JUSTICE

C. HARI SHANKAR, J.

SEPTEMBER 11, 2019

dsn

नित्यमेव जयते