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

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CS(OS) 243/2005

DR. SURESH GUPTA

..... Plaintiff

Through: Mr. Rajeev Sharma and Mr. Anmol  
Nag, Advs.

versus

DDA AND ORS.

..... Defendants

Through: Mr. Arun Birbal and Mr. Ajay Singh,  
Advs. for DDA.

**CORAM:**

**HON'BLE MR. JUSTICE V. KAMESWAR RAO**

**ORDER**

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**28.08.2019**

This Suit has been filed by the plaintiff with the following prayers:

*“It is, therefore, prayed that this Hon'ble Court be pleased to grant a permanent injunction :*

*a) Restraining the Defendant No.1 Delhi Development Authority, from interfering in the use by the Plaintiff of the premises 12, Jaipur Estate, Nizamuddin East, New Delhi as a nursing home by demand composition fee in respect of the said premises or by restraining the period of user, or the premises B-48, Greater Kailash I, New Delhi or in any other manner whatsoever;*

*b) Restraining the Defendant No. 1 Delhi Development Authority from enforcing any conditions contained in the letter dated 2<sup>nd</sup> November 1979 annexed to the Plaint, granting permission to the Plaintiff to use the premises 12, Jaipur Estate, Nizamuddin East, New Delhi, for running a nursing home for plastic surgery;*

*c) Restrain by permanent injunction Delhi Development Authority from preventing the Plaintiff from setting up nursing home in the building in suit situate at 12, Jaipur Estate, Nizamuddin East, New Delhi on the ground that the same is non-conforming area and from demanding any amount as composition fee either in respect of premises 12, Jaipur Estate, Nizamuddin East, New Delhi or in respect of premises B-48, Greater Kailash I, New Delhi.*

*d) Restrain by permanent injunction Defendant No.1, Delhi Development Authority from proceeding with the prosecution filed in the court of Metropolitan Magistrate Patiala House, New Delhi.*

*e) Declaring the amendment in the Delhi Nursing Homes Registration Rules 1953 made by the Lt. Governor on 1.5.1992 published in Delhi Gazette Extraordinary dated May 1, 1992 adding clause a(i) in item 1 serial number 1 of the Schedule to the rules reproduced in para 27 above as ultra vires of Delhi Nursing Homes Registration Act and particularly section 5 and 16 of the said Act and Article 14 and 19 of the Constitution of India.*

*f) By a mandatory injunction quash the aforesaid amendment introduced in the schedule to the Delhi Nursing Homes Registration Rules by addition of item No. 1(b) in the said schedule on the ground set out in prayer (e) above;*

*g) Declare the portions of the existing Master Plan or the new Master Plan proposed to be enforced null and void in so far as the same prevents a medical practitioner from setting up a nursing home in residential area on the ground that the same is non-conforming area, being in violation of the provisions of Delhi Development Act and Article 14 and 19 of the Constitution of India;*

*h) By a mandatory injunction quash the aforesaid portions*

*of the new Master Plan on the ground set out in prayer (g) above;*

*i) Director by mandatory injunction Defendant No.2, Director of Health Services to renew the licence of the Plaintiff and/or grant fresh licence to the Plaintiff for running the nursing home at 12, Jaipur Estate, Nizamuddin East, New Delhi.*

*j) Delhi Administration through the Secretary (Medical) be allowed to be impleaded as Defendant No.3.*

*k) To strike down and declare as null and void and arbitrary the Notification No. S.O. 273(E) called "The Delhi Development Authority (Permission of Residential Land & Building for use as Banks) Regulations, 2003" and regulations framed thereunder published in the "The Gazette of India - Extraordinary Part II-Section 3-Sub-section (ii)" dated 11.3.2003 under Articles 13, 14, 19, 265 and 277, 300A and 302 and other relevant provisions of the Constitution of India.*

It appears that the plaintiff was initially running a nursing home from property bearing no. B-48, Greater Kailash-I, New Delhi. It also appears that DDA has raised a claim of Rs.1,02,686/- as composition fee. The said amount was later raised to Rs.1,14,537.14/-.

It is stated at the Bar that the plaintiff had vacated the property being B-48, Greater Kailash-I, New Delhi in the year 1979. It appears that plaintiff had shifted to a new property situated at 12, Jaipur Estate, Nizamuddin East, New Delhi and continued to operate the Nursing Home from that property as well. The DDA raised an issue with regard to the running of the Nursing Home by the plaintiff from this property without following the norms.

Be that as it may, I have been informed by Mr. Rajiv Sharma, learned counsel for the plaintiff that the plaintiff is of 84 years old and suffering from various ailments. He also states that the plaintiff is not in a position to run a Nursing Home except the fact that he undertakes consultancy work, occasionally. He also states that the plaintiff henceforth shall not operate any Nursing Home from the property in question.

Noting the said submission, I deem it appropriate to dispose of the Suit by taking the submission made by Mr. Rajiv Sharma on record. At the same time, respondent DDA is directed that it shall not insist upon the payment of composition fee for running a Nursing Home, at the relevant point of time, from the aforesaid two properties.

Suffice it would be to state that if in the eventuality, plaintiff operates the Nursing Home contrary to the norms, liberty shall be with the DDA to proceed against plaintiff in accordance with law. Decree sheet be prepared in terms of the above.

**V. KAMESWAR RAO, J**

**AUGUST 28, 2019/jg**