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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **W.P.(C) 2494/2018**
SUKHDEV KUMAR

..... Petitioner

Through: Mr. Sunil Choudhary, Adv. with
petitioner in person

versus

SOUTH DELHI MUNICIPAL CORPORATION

..... Respondent

Through: Mr. Ajjay Aroraa, SC with
Mr. Kapil Dutta, Adv. with Mr. R.C.
Sharma, A.E. Building Department,
South Zone

CORAM:
HON'BLE MR. JUSTICE V. KAMESWAR RAO

ORDER
22.07.2019

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1. The present petition has been filed by the petitioner with the following prayers:-

In the facts and circumstances of the case as explained above, it is, therefore most respectfully prayed that this Hon'ble Court may kindly be pleased to:

a) issue a writ in the nature of mandamus or direction to the respondent to quash the order dated 16.01.2018 of rejection of application of addition and alteration submitted by the petitioner.

b) issue a writ in the nature of mandamus or direction to the respondent to reopen the application of the petitioner for the addition and alteration/sanction of plan for construction of 3rd floor over the property no. E-42, Saket, New Delhi, submitted by the petitioner on 30.10.2017 and reprocess the same, and the

case shall be treated as the deemed sanction on 29.11.2017, by regularizing the existing building and without requiring for the no-objection or signatures of the other co-owners of the existing building on the proposed plan.

c) issue a writ in the nature of mandamus or direction to the respondent to issue the demand note stating the requisite charges to be deposited towards regularization of existing building and towards deemed sanction of the building plan in reference to the application submitted for the addition and alteration by the petitioner on dated 30.10.2017 with a further directions to the respondent for accepting all the charges and to release the deemed sanction building plan within the time frame as decided by Hon'ble Court.

Or

issue a writ in the nature of mandamus or allow the petitioner to get the requisite charges calculated from the qualified/empanelled architect to deposit the same towards regularization of existing building and towards deemed sanction of the building plan in reference to the application submitted for additional and alteration/construction of 3rd floor on dated 30.10.2017, to the respondent or to deposit the above calculated charges in the Hon'ble Court to avoid further delay in the deemed sanctioning and releasing of deemed sanctioned plan by the respondent. With a further direction to the respondent to release the deemed sanctioned plan within a time frame limit to be decided by the Hon'ble Court.

d) Such further or other orders as may be deemed fit and proper in the present facts and circumstances of the case.”

2. The only submission made by Mr. Choudhary is that the respondent should not insist upon the petitioner submitting the NOC or signatures of the occupiers of the existing building on the proposed plan. In other words, he is only pressing prayer ‘b’ of the writ petition.

3. On this, Mr. Aroraa, learned counsel for the respondents submits, on instructions from Mr. R.C. Sharma, A.E. Building Department, South Zone that the respondent shall not insist upon the NOC or signatures of the occupiers of the existing building on the proposed plan but the petitioner still has to comply with the requirement of the building byelaws / MPD-2021.

4. On this Mr. Choudhary states that the petitioner shall meet the requirement of the building byelaws as well as MPD-2021. If that be so, the writ petition is disposed of, directing the respondents to consider the application of the petitioner for sanctioning the building plan for third floor in the manner suggested by the counsel for the parties noted above within eight weeks and in this regard the rejection of the application for sanctioning of building plan shall not come in the way.

5. If any order is passed to the prejudice of the petitioner, liberty is with the petitioner to seek such remedy as available in law.

V. KAMESWAR RAO, J

JULY 22, 2019/ak