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

+ LPA 212/2018 & CM APPL. No. 49510/2018

Reserved on: 01st April, 2019

Date of decision: 16th April, 2019

BALBIR SINGH CHAUHAN Appellant

Through: Mr. Nikhil Singla, Adv.

versus

NORTH DELHI MUNICIPAL CORPORATION & ORS

..... Respondents

Through: Mr. Ravi Gupta, Sr. Adv. with
Mr. Mukesh Gupta, Adv. for R1.

Mr. Sandeep Sethi, Sr. Adv. and
Mr. Rakesh Khanna, Sr. Adv. with
Mr. Lalit Gupta and Mr. Siddharth
Arora, Advs. for R2 to R4.

CORAM:

HON'BLE CHIEF JUSTICE

HON'BLE MR. JUSTICE ANUP JAIRAM BHAMBHANI

ANUP JAIRAM BHAMBHANI, J.

1. The appellant was the petitioner in W.P. (C) No. 2194/2018 in which he had challenged order dated 10.03.2017 made by North Delhi Municipal Corporation (the 'Corporation') revalidating sanctioned building plan dated 02.03.1971 issued in favour of respondent No. 4/East India Hotels Limited ('EIH').

2. As per the appellant's own averments, he is a resident of Oberoi Apartments situate at 2 Sham Nath Marg, Alipur Road, Civil Lines, New

Delhi and his grievance is that by revalidating the sanctioned building plan, the Corporation has permitted EIH to make further construction to the extent of 29664 sq. feet in the subject property, which constructible area had earlier been deleted but has now been restored in the originally sanctioned building plan as issued to EIH.

3. The most material contentions raised by the appellant before the single Judge, as recorded in impugned order dated 12.03.2018, are the following:-

“Having heard the counsel for the parties, on a specific query to Mr. Singla, as to whether any right of the petitioner has been effected (sic) because of the impugned order and also whether the petitioner is making a claim on the FAR of 29664 Sq. Ft. in his favour, his answer was in the negative. On a further query whether the rights of the petitioner to free passage, air and light has been effected, Mr. Singla states that no such rights of the petitioner are being affected. Further on a specific query whether the present petition has been filed in public interest, his answer is also in the negative. If that be so, it is a settled position of law that it is only a person whose rights have been affected, can invoke the jurisdiction of this court under Article 226 of the Constitution of India for appropriate relief. In other words, in the absence of an enforceable right, the petition is not maintainable. Surely the petitioner has no locus to challenge the impugned communication dated March 10, 2017.”

4. In our view the foregoing contentions, as decided by the single Judge, are dispositive of the entire matter and no further consideration is required.

5. In any event, by way of judgment dated 16.04.2019 rendered by this court in LPA No. 501/2018 titled ***Oberoi Apartments Owners Association (Regd.) vs. North Delhi Municipal Corporation & Ors.***, the revalidation of sanctioned building plan dated 02.03.1971 granted by the Corporation in favour of EIH, whereby constructible area of 29664 sq. feet has been restored in the originally sanctioned building plan, has already been upheld by this court. Accordingly, the essential dispute being sought to be raised before this court in this appeal already stands concluded in favour of EIH.

6. Accordingly, nothing further survives in the matter. This appeal is accordingly dismissed; however, without any order as to costs.

ANUP JAIRAM BHAMBHANI
(JUDGE)

CHIEF JUSTICE
(JUDGE)

APRIL 16, 2019/uj