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

+ W.P.(C) 8302/2018 & CM APPL. No. 31891/2018

PANCHSHEEL ENCLAVE RESIDENTS WELFARE
ASSOCIATION

..... Petitioner

Through: Mr. Siddharth Dutta, Mr. Kumar
Dushyant Singh, Mr. Devesh Chalia,
Advocates.

versus

COMMISSIONER SOUTH DELHI MUNICIPAL CORPORATION
& ORS

..... Respondents

Through: Mr. Annirudh Sharma, Advocate for
SDMC/R1, 2, 3.
Ms. Shubham Mahajan, Advocate for
ISKON/R5.

CORAM:

HON'BLE MR. JUSTICE ANUP JAIRAM BHAMBHANI

ORDER

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21.02.2019

The only prayer in this writ petition filed by the Panchsheel
Enclave Residents' Welfare Association is the following :

*“a) Issue a Writ, Order or direction in the nature
of mandamus or any other Writ or direction to
forthwith cancel permission and sanction of
building plan issued by Respondent No.1 to 3
regarding A1/17, Panchsheel Enclave, New Delhi
– 110017; and”*

2. All the respondents in the matter are represented except
respondent No. 4/Bhure Lal Committee, Environment Pollution

(Prevention and Control) Authority. Considering the nature of the prayer made however, I do not deem it necessary to await the service and appearance of respondent No. 4.

3. In status report dated 04.10.2018 respondents Nos. 1, 2 and 3/SDMC have stated that the property being house No. A1/17, Panchsheel Enclave, New Delhi has been inspected by the field staff on 20.09.2018; and it is found that the owner/builder of the subject property has completed demolition of the existing construction at site. The status report further states that a building plan has been sanctioned on 18.04.2018 on-line under the 'Saral Scheme' for construction of a new building comprising basement, stilt, ground floor, first floor, second floor and third floor on the residential plot.

4. The status report further states that the respondent/SDMC will maintain strict vigil at the site and take necessary action if any unauthorized construction is noticed.

5. In counter affidavit dated 07.02.2019 filed by respondent No. 5/ISKON, the said respondent *inter alia* states as under :

“3. That the property being A1/17, Panchsheel Enclave, New Delhi – 110017 belonged to Smt. Savitri Devi Bhanote who gifted the said property to ISKCON in the year 2001. It is pertinent to mention that the answering respondent is constructing a residential building as per the plan sanctioned by the competent authority. It is further submitted that the present petition is premature as the question of the dispute regarding the usage of the said premises, whereas the construction of the said premises has not even been completed and there is no usage of the said premises till date. It is imperative to mention here

that the answering respondent undertakes that this respondent will use the said premises as per law.”

whereby it is clear that though on the date of filing of the status report by the SDMC, only the existing structure had been demolished, as of the date of filing of counter affidavit by respondent No. 5, the building on the subject property is under construction but not yet complete.

6. Learned counsel appearing for respondent No. 5 also confirms that that is the position *as of today*. Respondent No. 5/ISKCON shall remain bound by what is stated in their counter affidavit.

7. The petitioner’s apprehension arises from certain brochures, pamphlets and material appearing on respondent No. 5’s website, based upon which the petitioner contends that respondent No. 5 intends to use the building under construction for purpose of a temple/ or educational institution or guest house, to which the petitioner has an objection.

8. Be that as it may, the petitioner obviously cannot object to the construction and use of the building if it is in accordance with the law, rules and regulations applicable to the building.

9. Apart from the petition being pre-mature and based upon mere apprehension, this court is of the view that the present petition can in any case be disposed of with the following directions :

(a) that the building being constructed on the subject property shall strictly conform to the building plan sanctioned by the SDMC;

(b) that the building on the subject property shall be used in conformity with the permissible user thereof, in accordance with law, rules and regulations applicable to the building;
(c) that the SDMC shall ensure compliance of points (a) and (b) above in accordance with law.

10. This petition is accordingly disposed of, giving liberty to the petitioner to invoke any remedy available to him in law, if the need so arises.

11. The petition is disposed of in above terms.

12. Pending applications, if any, are also disposed of.

ANUP JAIRAM BHAMBHANI, J.

FEBRUARY 21, 2019

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