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

+ W.P.(C) 4927/2017, CM No. 21294/2017

ABHISHEK DUTTA

..... Petitioner

Through: Mr.N.K.Kantawala, Adv. with
Ms.Akanksha Jain, Adv.

versus

SOUTH DELHI MUNICIPAL CORPORATION

..... Respondent

Through: Mr.Rakesh Mittal, Standing Counsel
with Ms.Yamini Mittal, Mr.Ajay
Harshana, Adv.

CORAM:

HON'BLE MR. JUSTICE V. KAMESWAR RAO

ORDER

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20.03.2019

The challenge in this writ petition is to order dated May 26, 2017 issued by the respondent, which is a Vacation Notice under Section 349 of the Delhi Municipal Corporation Act, 1957.

It is stated by Mr. Mittal, learned counsel appearing for the SDMC that a demolition order has been passed on April 28, 2015, and the aforesaid vacation notice is pursuant thereto. According to him, the remedy available to the petitioner is to approach the ATMCD against the demolition order.

He states, the petitioner can also challenge the Vacation Notice dated May 26, 2017 before the ATMCD.

Even though, learned counsel for the petitioner has some submissions to make with regard to the manner in which the demolition order has been passed, without going into the issue, as the petitioner has an alternative remedy available before the ATMCD, I deem it appropriate to relegate the petitioner to the ATMCD. The petitioner shall file the appeal before the ATMCD within three weeks from today. The said appeal shall be accompanied by an application for stay. The ATMCD shall consider the appeal and the application for stay afresh, without being influenced by an interim order passed by this Court on May 27, 2017.

Even though, Mr. Mittal, Adv. opposes the extension of the protection granted by this Court on May 27, 2017, this Court is of the view that since the petitioner is being relegated to the ATMCD, the protection granted by this Court on May 27, 2017 must continue till such time, the petitioner approaches the ATMCD and the ATMCD considers the appeal and the stay application and passes the order.

It is made clear that the parties shall be at liberty to take all pleas both on facts and on law before the ATMCD.

Writ petition is disposed of.

Order dasti.

V. KAMESWAR RAO, J

MARCH 20, 2019/*akb*