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

Date of decision: 28th November, 2019

+ W.P.(C) 10590/2018

PANCHSHILA CO-OPERATIVE HOUSE BUILDING SOCIETY
LTD. Petitioner

Through: Mr. Ashim Shridhar, Adv.

Versus

SOUTH DELHI MUNICIPAL CORPORATION
AND ORS. Respondents

Through: Ms. Sri Harsha Peechara, SC with
Ms. Kriti Sinha, Adv. for
respondent no. 1
Mr. S.K. Pandey, Mr.
Chandershekhar, Mr. Anshul Rai
and Mr. Awanish Kumar, Adv.
for respondent nos. 2 and 3

CORAM:
HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE C.HARI SHANKAR

ORDER
28.11.2019

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D.N. PATEL, CHIEF JUSTICE (ORAL)

1. This writ petition has been preferred with the following prayers:

“(a) Issue a writ in the nature of mandamus or any other appropriate writ/order or direction in favour of the Petitioner directing Respondent No. 1 SDMC to take appropriate action against respondent no. 2 and

respondent No. 3 under Para 15.9 and Para 15.11 of the MPD-2021 for violations of Mixed Use Regulations given under Para 15 of MPD-2021 in the basement of property situated at Plot S-200, Panchsheel Park, Malviya Nagar, New Delhi-110017.

(b) Pass any other and further orders as the Hon'ble Court may deem fit under the facts and circumstances of the case in favour of the Petitioner and against the Respondents."

2. Having heard counsel for both the sides and looking to the facts and circumstances of the case, it appears that there are allegations against the respondent nos. 2 and 3 about the unauthorised use of basement in the premises situated at S-200, Panchsheel Park, Malviya Nagar, New Delhi.

3. It appears that arguments of the counsel for petitioner are about the alleged mixed use of the premises in question by the respondent nos. 2 and 3, which is in violation of the MPD-2021, in the basement of the property as stated hereinabove. We, therefore, direct that if there is any unauthorised use in the premises in question, the respondent no. 1 shall initiate action in accordance with law, rules, regulations and Government policy applicable to the facts of the case, after giving adequate opportunity of being heard to the respondent nos. 2 and 3 and other stakeholders, if any. In this writ petition, we are not inclined to hear and decide as to whether the use of the property in question by the owners is legal or not because it requires cogent and convincing evidence to be

taken on record. Even otherwise also, when there is any unauthorised use, respondent no. 1 can always take action as stated hereinabove.

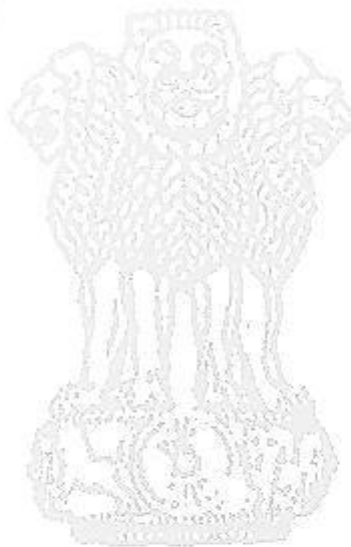
4. With these observations, this writ petition is hereby disposed of.

CHIEF JUSTICE

C.HARI SHANKAR, J.

NOVEMBER 28, 2019

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