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

+ W.P.(C) No. 10747/2017 & CM APPL. 44013/2017

RAJEEV SURI Petitioner
Through: Mr. Shikhil Suri, Advocate.

versus

SOUTH DELHI MUNICIPAL CORPORATION
(SDMC) AND ORS.

..... Respondents
Through: Mr. Sanjiv Sen, Senior Advocate with
Ms.Rukhmini Bobde, Mr.Nivesh
Kumar, Advocates for SDMC.
Mr. Ajay Digpaul, Ms.Madhuri
Dhingra, Advocates for L&DO.
Mr. Zahid Hanief, Advocate for
Mr.Naushad Ahmed Khan, ASC
(Civil) for GNCTD.

CORAM:

HON'BLE MR. JUSTICE ANUP JAIRAM BHAMBHANI

ORDER

% **21.01.2019**

Additional affidavit dated 12/25.09.2018, though filed prior to the last date of hearing i.e. 27.09.2018, has come on record subsequently.

Mr. Sanjiv Sen, learned Senior Counsel appearing on behalf of respondent No. 1 states that respondent No. 1 has abandoned its plan of constructing a multi-level parking in the Children's Park/open area around the '*Gumti of Shaikh Ali*' behind Defence Colony Market, New Delhi; and that respondent No. 1 will now be re-locating the proposed multi-level parking to an existing surface parking in front of 'Moets' Restaurant in Defence Colony Market. He further states that a 'No- Objection' from the

Defence Colony Market Welfare Association has been obtained. He also confirms that the site at which the proposed multi-level parking is now planned neither covers any green area nor does it affect the historical monument/‘Gumbad’ structure or the ‘*Gumti of Shaikh Ali*’. In this view of the matter, Mr. Sen submits, nothing survives in the present writ petition and the same may be disposed of as infructuous.

Learned counsel for the petitioner however submits that a mere ‘No-Objection’ obtained from the Market Welfare Association would not suffice and respondent No. 1 is required to take other permissions under the law, including permissions from the Land & Development Office, the DDA, the Delhi Traffic Police ; and also conduct an Environmental Impact Assessment before constructing the multi-level parking. He also points-out that a Public Interest Litigation by way of W.P.(C) No. 5021/2018 relating to 18000 Children’s Parks in Delhi in the context of the ‘right to play’ is pending before a Division Bench of this Court, which petition also involves the question of the Children’s Park in Defence Colony that is subject matter of the present petition.

In the said proceedings before the Division Bench, an order dated 11.05.2018 was passed in which the Division Bench had observed as under:

“5. The Municipal Corporation of Delhi and the Delhi Development Authority who are alleged to be permitting conversion of existing parks including neighbourhood parks into parking lots shall file an affidavit as to the status of the available parks in the Defence Colony. It shall be specifically stated as to whether, keeping in view the Master Plan norms, there is sufficient lung space and green area available for the residents of Defence Colony. This court shall also be

informed as to whether this fact was taken into consideration while permitting the conversion of a park as alleged by the petitioner into a multi-level parking lot.

“6. The respondents shall maintain status quo with regard to the construction of the multilevel parking till the next date of hearing.”

Learned counsel appearing for the petitioner confirms that after the aforesaid order dated 11.05.2018, no further orders in relation to the multi-level parking in Defence Colony that is subject matter of the present proceedings, have been passed by the Division Bench and that the said PIL is now listed on 06.03.2019.

In light of the above, I am of the view that respondent No. 1 would of course need to obtain all permissions and comply with all requirements of the law before it constructs a multi-level parking at the site in Defence Colony where it is now planned. Furthermore, in view of the *status quo* order made by the Division Bench by its order dated 11.05.2018, respondent No. 1 would have to place its submissions before the Division Bench before it goes ahead with construction of the multi-level parking. However, insofar as the prayers made in the present writ petition are concerned, in view of what is stated in additional affidavit dated 12/25.09.2018 filed by respondent No. 1, nothing further survives in the present petition. The same is therefore disposed of as infructuous.

However, it is made clear that, since construction of the multi-level parking by respondent No. 1 in Defence Colony was subject of a status quo order dated 11.05.2018 made by the Division Bench in W.P.(C) No. 5021/2018, respondent No. 1 shall not proceed with construction of the

multi-level parking, even in the changed location, without permission of the Division Bench in the aforesaid matter.

The present writ petition is disposed of in the above terms.

ANUP JAIRAM BHAMBHANI, J.

JANUARY 21, 2019

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