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

+ **W.P.(C) 997/2020**

SH. RAKESH MUNJAL

..... Petitioner

Through: Mr. J.P. Sengh, Sr. Advocate with Mr.
Maneesh Goyal, Mr. Saif Mahmood,
Ms. Nitisha Goyal and Mr. Ankur Arora,
Advocates.

versus

SOUTH DELHI MUNICIPAL CORPORATION & OTHERS

....Respondents

Through: Ms. Saroj Bidawat, Advocate for R-1 and
R-2.

Mr. Vikas Arora, Mr. Ayush Gupta and Ms.
Radhika Arora, Advocates for
R-6/applicant.

CORAM:

HON'BLE MR. JUSTICE NAJMI WAZIRI

ORDER

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29.07.2020

The hearing was conducted through video conferencing.

CM APPL. 16881/2020 (by R-6 for clarification/modification of order dt. 21.07.2020)

1. Issue notice. The learned counsel named above accepts notice on behalf of the non-applicants. At joint request the application is taken up for disposal.
2. This application seeks modification of the order dated 21.07.2020 which records in para 6, as under:

“ 6. At this stage, upon instructions the learned counsel for the applicant/respondent no. 6 submits, that the idea to put the ground floor to use as a commercial property has been abandoned by R-6, and the said property shall be used only as a residence.”

3. Respondent no.6/ the applicant submits that he had abandoned the idea of using a residential property for commercial purposes only for the moment and not for all times. Therefore, if he decides to use the property for commercial purposes in due course, he will abide by the procedure as prescribed in law.
4. Mr. J.P. Sengh, the learned Senior Advocate for the non-applicant/petitioner, submits that in terms of the previous order, the applicant/respondent no. 6 had completely abandoned the idea of using the property for commercial purposes. Nevertheless, if he were to change the user to commercial, he would be required to take NOC from the other residents of the building. In support of his contention, he relies upon the decision of this Court dated 13.04.2018, in *Mrs. Vasumati Mahajan and Anr. vs. South Delhi Municipal Corporation and Ors.* in WP. (C) 1524/. The relevant paras read as under:-

“ ...

38. *One more submission made by Mr. Ravi Gupta that the respondent No.3 is required to take NOC from the occupants of the other dwelling units in the building is concerned, the same is also appealing as an occupant of other dwelling unit(s), in a residential building, has a stake insofar as the common areas/amenities/security etc are concerned. To that extent ,his/their rights would be effected. To obviate an objection at a later stage, NOC need to be taken from the occupants of the other dwelling units in the building, before starting any activity.*

41. *Accordingly, the present petition is allowed. It is held that the respondent No.3 cannot run a preprimary school without the road on which the property is situated is identified for mixed use/NOC from the occupants of the other dwelling units in the building and sanction of the*

SDMC for running a preprimary school from the ground floor of the property bearing No. E-68, Vasant Marg, Vasant Vihar, New Delhi are taken/obtained. No costs.”

5. However, the learned counsel for the applicant/respondent no. 6 submits that the said directions was passed in a different context, as can be seen from paragraph 27 of the said judgment. It has been impugned in a pending LPA.
6. Be that as it may, if the applicant decides to change the user, he will comply with all requisite procedure.
7. The application and the writ petition are disposed-off in the above terms.
8. The order be uploaded on the website forthwith. Copy of the order be also forwarded to the counsels through e-mail.

NAJMI WAZIRI, J

JULY29, 2020/RW