

\$~5

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

+ W.P.(C) 3609/2020 and CM APPL 12854/2020

M/S RUBY PROMOTERS (P) LTD. & ANR.Petitioners
Through: Mr Manish Kumar Shrivastava
Advocate.

versus

DEPUTY COMMISSIONER (SOUTH) & ORS. Respondents
Through: Ms Garima Prasad, Advocate.

CORAM:

HON'BLE MR. JUSTICE NAJMI WAZIRI

ORDER

%

19.06.2020

1. The hearing was conducted through video conferencing.
2. Issue notice. The learned counsel named above accepts notice on behalf of the Respondents. At joint request of the parties, the appeal is taken up for disposal.
3. The Petitioner's property bearing Khasra No. 390 min, Village Ghitorni comprising roughly 18,000 sq. ft. has been sealed by the MCD on account of it being unauthorizedly constructed. By order dated 20.11.2019, this Court had directed that the petitioner's representation will be looked into by the SDMC and will be disposed-off as expeditiously as possible; if the petitioner had a grievance against such order, he could pursue his legal remedies.
4. An order was passed by the Corporation on 20.01.2020, apropos which the petitioner has yet to initiate appropriate measures. The

petitioner submits that in any case, he has not received the copy of any such order. In the circumstances, the learned counsel for the respondent shall supply a copy of the said order through email to the learned counsel for the petitioner.

5. The petitioner submits that, even otherwise, it could not have pursued as the owner of the company had taken ill. A major surgery was performed on him on 28th January, 2020. He was discharged from hospital on 14th March. He also suffered a fall in the interim. Then a few days thereafter, the lockdown was announced and it has not been able to avail the statutory remedy before the learned ATMCD because the said Tribunal is non-functional. After supply of a copy of the order, the petitioner may pursue its legal remedies as may be available to it as per law in due course.
6. Be that as it may, the owner of the petitioner claims to be a social worker and two of his children are doctors. He wishes to put the aforesaid property, which is almost ready for use, at the disposal of the Government of NCT of Delhi to be used for the larger interest of the community i.e., for setting up of a temporary care shelter for COVID-19 patients. Ms. Prasad submits on behalf of the Corporation, that the aforesaid property is in an unauthorized colony and the Corporation cannot vouch for its structural and/or other safety requirements. These issues, however, can be looked into by the Disaster Management Committee and the Government of NCT of Delhi, if a decision is taken at the appropriate level to avail the petitioner's philanthropic offer as a concerned citizen. The petitioner states that the said offer is in the larger public interest in view of

recent press reports that there is a likelihood of COVID-19 patients in Delhi reaching about half a million by the end of July, 2020, needing for more beds for treatment of such patients. The offer is *ex facie* appreciable and laudable. It will be open to the Government to decide on the petitioner's offer.

7. The Petitioner states that it will bring the property up to the requisite standards and will equip the property with 20/25 beds for medical care and other basic facilities like fire and other safety and structural requirements. According to the petitioner, the property has an electricity connection and other facilities for it being to use.
8. In view of the above, this petition shall be treated as the petitioner's representation and offer to the GNCTD. A decision thereon may be taken within a week from today and intimated to the petitioner. Since the use of the building would be in most unusual circumstances i.e. where normal life has been thrown out of gear; and there is a need for additional space for the government to extend its medical facilities for the people who are going to be and likely to be affected and the government needs to augment its medical facilities; therefore, the SDMC shall remove the seals from the building to facilitate its inspection by the GNCTD, should it so desire and thereafter put it to use, as an emergency COVID19 medical care centre. However, the mere use of the said building as such a centre shall not create any special equities in favour of the petitioner, for regularization of the building or for any other claim it may have. The SDMC shall have the right to take appropriate action regarding the unauthorized construction. It is submitted by learned counsel for the Respondents

that a COVID-19 centre could not possibly be run in a residential area.

9. However, the petitioner's offer is to the GNCTD and it is for the government to assess the suitability of the building for such use. The GNCTD and the SDMC shall coordinate between each other. The GNCTD shall make a call on the basis of the extant policies and guidelines for user of the building for the exigent medical purposes. The SDMC shall cooperate in the matter.
10. The writ petition is disposed-off in the above terms. The pending application is also disposed of.
11. The order be uploaded on the website forthwith. Copy of the order be also forwarded to the counsels through email.

NAJMI WAZIRI, J

JUNE 19, 2020/*rd*