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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **W.P.(C) 3770/2020**

SUDARSHAN KUMAR MALHOTRA & ANR.Petitioners
Through: Mr Rahul Malhotra, Advocate.

versus

SOUTH DELHI MUNICIPAL CORPORATION Respondent
Through: Mr Dhanesh Relan, Advocate.

CORAM:
HON'BLE MR. JUSTICE NAJMI WAZIRI

ORDER
% **26.06.2020**

1. The hearing was conducted through video conferencing.

CM 13486/2020 (Exemption)

2. Allowed subject to all just exceptions. The application stands disposed off.

CM 13487/2020 (Court fee)

3. Exemption allowed, subject to the condition that the Petitioner will file the duly sworn/attested affidavit and the requisite Court fee within 72 hours from the date of resumption of the regular functioning of this Court. The application stands disposed-off.

W.P.(C) 3770/2020 & CM 13485/2020

4. Issue notice.
5. The learned counsel for the Respondent named-above accepts notice on behalf of the Respondent/Corporation.
6. At joint request of the parties, the petition is taken up for disposal.
7. The petitioners are apprehensive that the lift constructed in the front of their building, albeit maintaining the front set-back of three meters

as is applicable to his property, is likely to be demolished by the respondent-South Delhi Municipal Corporation (SDMC). Their apprehension is largely on account of the fact that for the past few days, officials from the Building Department of the said Corporation have been visiting the petitioners property and the latter have heard certain murmurs of imminent demolition of the structure by the Corporation. According to the petitioners, construction of the lift is permissible under the extant Building Bye-laws. Reference is made to the Procedure and Documentation for Sanction/occupancy-cum-Completion Building Plans of the Unified Building Bye Laws for Delhi 2016, as notified by the DDA on 22.03.2016.

8. The petitioners' land is between 250 to 500 square metres. Clause 4.4.3 of the MPD 2021-Chapter 4, provides for a set-back of 3 meters for a plot of land admeasuring between 250 to 500 sq. metres. The petitioners fall in this category. The relevant clause is reproduced as under:

a. The minimum setbacks shall be as given in the following table:

S.No.	Plot size (in sq.m.)	Minimum Setbacks (in meter)			
		Front	Rear	Side(1)	Side(2)
1	Below 100	0	0	0	0
2	Above 100 and up to 250	3	0	0	0
3	Above 250 and up to 500	3	3	3	0
4	Above 500 and up to 2000	6	3	3	3
5	Above 2000 and up to 10000	9	6	6	6
6	Above 10000	15	9	9	9

- a. In case the permissible coverage is not achieved with the above mentioned setbacks in a plot, the setbacks of the preceding category may be allowed.
b. In the case construction in the future, a minimum 2m x 2m open courtyard shall be provided for in residential plots of area of 50 sq.m to 100 sq.m.

9. It is further submitted by the learned counsel for the petitioners that presently the set-back is more than three meters, therefore, they have committed no illegality and their structure is not liable to be

demolished. In any case not without prior notice to the petitioners. The photographs of the building are as under:



10. In view of the above, this petition shall be treated as the Petitioners' representation to the Respondent- SDMC, which shall take a decision thereon within three weeks from today and intimate the Petitioners of the same. If the petitioners are required to rectify or make any amends, they shall do so within two weeks thereafter, failing which the respondent-Corporation shall be free to take appropriate action in accordance with law a week thereafter, with due intimation to the petitioners. It will however be open to the petitioners to take recourse to remedies as may be available in law.

11. The petition along with pending application stands disposed-off.

12. The order be uploaded on the website forthwith. Copy of the order be

also forwarded to the counsels through email.

NAJMI WAZIRI, J

JUNE 26, 2020/*rd*