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

+ W.P.(C) 3774/2020 & CM APPL. 13509/2020 (for directions)

SUSHMA BHAMBRI

..... Petitioner

Through: Mr. Praveen Suri and Ms. Komal
Chibber, Advocates.

versus

THE COMMISSIONER NDMC & ORS.

..... Respondents

Through: Ms. Mini Pushkarna, SC for North
DMC with Ms. Khusboo Nahar and
Ms. Latika Malhotra, Advocates for
R-1 to R-3.
Mr. Shekhar Kumar, Advocate for R-
4 & R-5.

CORAM:

HON'BLE MR. JUSTICE NAJMI WAZIRI

ORDER

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29.06.2020

1. The hearing was conducted through video conferencing.

CM APPL. 13508/2020 (for exemption)

2. Allowed, subject to all just exceptions.

3. The application stands disposed-off.

W.P.(C) 3774/2020 & CM APPL. 13509/2020 (for directions)

4. Issue notice.

5. The learned counsels named above accept notice on behalf of the respondents.

6. At joint request, the petition is taken up for disposal.

7. This petition seeks the following reliefs:

“a. Issue appropriate directions or writ in the form of certiorari or any other appropriate writ whereby the respondents nos. 1 & 5 be called upon to produce the construction record of property bearing no. M-212, Shashtri Nagar, Delhi-110052 ad-measuring 50 sq. yds.

b. Issue a further writ of mandamus against the respondents no. 1 to 3 by taking appropriate action against unauthorized construction as per the relevant provisions of Delhi Municipal Corporation Act and respondent no. 4 & 5 be directed to comply the social distancing and other norms issued under the Disaster Management Act, 2005 due to COVID-19 in respect of property bearing no. M-212, Shastri Nagar, Delhi-110052 ad-measuring 50 sq. yds having purchased by Ms. Namita Sharma from Smt. Taruna Juneja vide sale deed dated 05.11.2014.

c. Cost of the present proceedings may be awarded in favour of the petitioner.

d. Any other or further order which this Hon’ble Court may deem fit and proper in the facts and circumstances of the case may also be passed in favour of the petitioner and against the Respondents.”

8. Property bearing no. M-212, Shastri Nagar, Delhi-110 052, has been divided into two parts, one part admeasuring 100 sq. yds., and the other part of 100 sq. yds. has further been sub-divided into 50 sq. yds. each. All of them bear the same property number as mentioned hereinabove. The petitioner has a grievance apropos one of the 50 sq. yds. plots, in which, according to the learned counsel for the petitioner, the old structure has recently been demolished and the new one is likely to be constructed by one Ms. Namita Sharma W/o Mr. Shivam Sharma, who claims to be the

owner of the said plot. The latter claims to have become the owner by purchasing the rights of the said plot of land from the niece of the petitioner, namely Ms. Taruna Juneja, by way of a sale deed dated 05.11.2014/22.10.2014.

9. Ms. Mini Pushkarna, the learned Standing Counsel for North MCD, submits that there is a sanction plan apropos the said 50 sq. yds. Plot. She further submits upon instructions, that as of this morning, there is no construction activity going on in the vacant plot of land about which the petitioner has a grievance, as shown in the photographs annexed at annexure P-9 (colly) of the paperbook. The learned counsel for the petitioner, submits that the said 50 sq. yds. plot is an inherited property and for its partition the aforementioned suit is pending in this Court, in which the *status quo* order was passed 09.04.2019 in CS (OS) 180/2019. He further submits that since the property has not been partitioned, therefore, nobody could claim an individual right to transfer the same to a third-party to construct a new building thereon.
10. In the circumstances, this writ petition shall be treated as the petitioner's representation by the North MCD for it to take a decision apropos the right of any person to construct anything on the aforesaid plot of land. It will be open to the North MCD to issue notice to the other parties, who have claimed rights in the said plot of land. The Corporation shall pass a speaking order within four weeks from the date of receipt of a copy of this order and intimate the same to the petitioner and the parties concerned, after serving them due notice and after hearing them.

- 11.The writ petition, alongwith pending application, is disposed-off in terms of the above.
- 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 29, 2020

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