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

+ W.P.(C) 3789/2020 & CM APPL. 13591/2020 (ex-parte stay)

MANMEET SINGH SETHI

..... Petitioner

Through: Mr. Ashesh Lal, Mr. Arun K. Srivastava and Mr. Raghav Parwatiyar, Advocates.

versus

THE COMMISSIONER SOUTH DELHI MUNICIPAL CORPORATION & ORS.

..... Respondents

Through: Mr. Tushar Sannu, Standing Counsel with Ms. Ankita Bhadouriya, Advocate for R-1 & R-2.
Ms. Warsha Farasat and Mr. Shourya Dasgupta, Advocates for R-3.

CORAM:

HON'BLE MR. JUSTICE NAJMI WAZIRI

ORDER

% **29.06.2020**

1. The hearing was conducted through video conferencing.

CM APPL. 13590/2020 (Exemption)

2. Allowed, subject to all just exceptions.

3. The application stands disposed-off.

W.P.(C) 3789/2020 & CM APPL. 13591/2020 (ex-parte stay)

4. Issue notice.

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

6. It is the petitioner is a resident of property bearing no. WZ-219, Gali No. 2, Virender Nagar, New Delhi – 110 058. It is his grievance, that in W.P. (C). 3294/2020 pending before this Court,

one Mr. Surat Singh, who claims himself to be a neighbour, had complained of an unauthorised construction being carried out in the property no. WZ-219/1, Gali No. 2, Virender Nagar, New Delhi – 110 058. The said complaint was not directed against the petitioner's building but some other building, the owner of which is said to be one Mr. Gurvinder Singh who has been arrayed as respondent no. 3 in the aforementioned writ petition. Orders have been issued by the South Delhi Municipal Corporation for demolition of the unauthorised construction, in that case.

7. The present petitioner states that he has occupied the premises after purchasing due the rights in it many months ago. The property has been remodelled and his family and of his relatives are living on its various floors. Photographs of habitation of the building's occupiers and use of it by their families, are annexed to the petitioner and reproduced hereinunder:





8. It is the submission of the learned counsel for the petitioner that the notice of the SDMC has come as a surprise to the petitioner and if any adverse action is taken against him, he will be uprooted without any recourse or remedy and his children will have no place to go to, especially in these difficult pandemic times. Furthermore, he submits that the learned ATMCD is not functional presently as there is no Presiding Officer, therefore, any notice for adverse action against the petitioner could not be possibly challenged before the said Tribunal.
9. The petitioner further submits that no sanction plan is required for a plot of land which is less than 105 square metres; that the

petitioner's property falls in this category as it has a land size of only 97 square metres i.e. 100 sq. yds. Therefore, the petitioner had merely to ensure structural safety of the building.

10. In the circumstances, it will be open to the SDMC to take a call regarding the petitioner's concerns by treating this writ petition as the petitioner's representation. After hearing the parties concerned, the Corporation's decision thereon, will be communicated to the petitioner in four weeks, from receipt of a copy of this order. The SDMC shall co-ordinate with the other authorities, as may be requisite, in reaching its decision.
11. It is expected that till the petitioner's representation is decided, the SDMC will not take any adverse action against him, lest his interest be irreparably prejudiced.
12. The writ petition, alongwith pending application, is disposed-off in terms of the above.
13. The order be uploaded on the website forthwith. Copy of the order be also forwarded to the counsels through email.

JUNE 29, 2020

AB

NAJMI WAZIRI, J