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IN THE HIGH COURT OF DELHI AT NEW DELHI

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W.P.(C) 5159/2020

MR GIAN PRAKASH GOEL & ANR.

.....Petitioners

Through: Mr Vibhor Garg and Mr Sidhant
Bhatia, Advocates.

versus

SOUTH DELHI MUNICIPAL
CORPORATION & ANR.

..... Respondents

Through: Mr Keshav Mohan, Mr Rishi K.
Awasthi, Mr Piyush Vatsa and Mr
Prashant, Advocates for SDMC/R-1. .

CORAM:

HON'BLE MR. JUSTICE NAJMI WAZIRI

ORDER

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10.08.2020

The hearing was conducted through video conferencing.

CM APPLN 18566/2020 (Exemption)

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

W.P.(C) 5159/2020 & CM APPLN 18565/2020 (Interim directions)

2. Issue notice.
3. Notice is accepted by learned counsel as named above for the respondent/South Delhi Municipal Corporation.
4. At joint request of the learned counsels for the parties, the petition is taken up for disposal.
5. In this petition, the petitioners seek the following reliefs:

“A. Issue a Writ of Mandamus against the Respondent No. 1 thereby directing Respondent No. 1 to inspect and take actions as per law against the illegal & unauthorised construction and encroachment done by the Respondents No. 2 & 3 in their Flat No. 1123, A/A, Pocket A, Vasant Kunj, New Delhi over the

period of time, at the cost of Respondents No. 2 & 3;

B. Issue a Writ of Mandamus thereby directing Respondent No. 1 to take appropriate action as per law against Respondents No.2 & 3 as per law including initiation of Prosecution against them...”

6. The petitioners are aggrieved by the inaction on part of the respondent/Corporation apropos their complaint of unauthorized construction being carried out by their neighbour on the first floor of their building. They are residents of Ground Floor Flat No. 1130, A/A Vasant Kunj, New Delhi- 110070. The construction is causing them immense inconvenience, especially since the bathroom, illegally, constructed directly over their kitchen has led to extensive seepage, and the stench emanating from it is unbearable.
7. The petitioners -- husband and wife, are aged 82 and 75 years respectively. They had complained to the Corporation on 11.10.2019 and the case was marked to the Junior Engineer concerned on 21.10.2019. Despite that, the construction came up. The Junior Engineer had perhaps sat over it and did not issue any notice. Nothing was done by the Corporation in the matter. In the circumstance, the Deputy Commissioner concerned shall look into the matter and initiate appropriate measures against the official(s) concerned, if he finds any anomaly.
8. The learned counsel for the Corporation submits that notice was issued to the occupants of the first floor on 20.07.2020 and a hearing has been fixed for 13.08.2020. Let the issue be decided after hearing the parties: respondents nos. 2 and 3, through counsel and via video-conferencing, including the petitioners. The Corporation's decision

shall be duly communicated to the parties within two weeks thereafter. Rectifications, may be required, shall be completed within two weeks or such time as may be granted by the Corporation. The parties shall be free to pursue their legal remedies. The Dy. Commissioner shall file an affidavit by 15th October 2020 apropos action taken against erring officials, if he so finds. List the case only for reporting compliance two weeks thereafter.

9. The petition, along with the pending application, stands disposed-off in above terms.
10. The order be uploaded on the website forthwith. Copy of the order be also forwarded to the counsels through email.

NAJMI WAZIRI, J

AUGUST 10, 2020/rd