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

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Judgment delivered on: 22.12.2020

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CM(M) 500/2020

SUDESH KUMAR

..... Petitioner

versus

SOUTH DELHI MUNICIPAL CORPORATION ...Respondent

Advocates who appeared in this case:

For the Petitioner: Mr. Prashant Katara, Advocate.

For the Respondent:

Mr. Siddhant Nath, Advocate with Mr. Faiz Ahmed Bakshi,
A.E.(B), South Zone, SDMC.

CORAM:-

HON'BLE MR. JUSTICE SANJEEV SACHDEVA

JUDGMENT

SANJEEV SACHDEVA, J. (ORAL)

CM(M) 500/2020 & CM APPL.25787/2020 (stay)

1. The hearing was conducted through video conferencing.
2. Petitioner impugns order dated 05.10.2020 whereby the application of the petitioner for grant of interim stay pending his appeal under Section 343(2) of Delhi Municipal Corporation Act, 1957 against the order of demolition dated 21.09.2020 was dismissed.
3. Learned counsel for the petitioner submits that apart from the fact that his documents were not considered solely on the ground that some of the documents i.e. lease deeds were unregistered, he submits that the order passed by the Assistant Engineer dated 21.09.2020 was in breach of

principles of natural justice, in as much as, the officer who granted a hearing to the petitioner on 20.02.2019 is not the officer who has passed the order and the officer who has passed the order is not the one who even heard the petitioner at any point of time during the said proceedings.

4. Since the officer who had heard the petitioner is not the one who had passed the order and the officer who has passed the order is not the one who even heard the petitioner, *prima facie*, I am of the view that this order is not sustainable.

5. In view of the above, the impugned order dated 05.10.2020 passed by the Appellate Tribunal declining to grant stay during the pendency of the appeal is not sustainable and, accordingly, is set aside. There shall be stay of the operation of the demolition order dated 21.09.2020 till the disposal of the Appeal.

6. However, it would be open to the respondents to withdraw the order dated 21.09.2020 and pass a fresh speaking order after hearing the petitioner.

7. Petition is allowed in the above terms.

8. Copy of the judgment be uploaded on the website and be also forwarded to learned counsels through email by the Court Master.

DECEMBER 22, 2020
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SANJEEV SACHDEVA, J