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

% Date of Decision : 8th January, 2021

+ LPA 7/2021

DIWAN CHAND AGGARWAL & ORS.Appellants
Through: Ms. Mallika Parmar and Ms. Nitya
Sharma, Advocates.

versus

DELHI DEVELOPMENT AUTHORITY & ORS.Respondents
Through: Ms. Shobhana Takiar, Standing
Counsel for DDA.
Ms. Anya Singh, Advocate for R-2
and R-4.
Mr. Siddharth Khatana, Advocate for
R-3/UOI.

CORAM:
HON'BLE THE CHIEF JUSTICE
HON'BLE MS. JUSTICE JYOTI SINGH

JUDGMENT

: **D. N. PATEL, Chief Justice (Oral)**

Proceedings in the matter have been conducted through video conferencing.

CM APPL. 600/2021 (exemption)

Allowed, subject to all just exceptions.

The application is disposed of.

LPA 7/2021, C.Ms.No. 599/2021 (stay), 601/2021 (addl docs.)

1. The appellants (original petitioners) have preferred the present Letters

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Patent Appeal being aggrieved and dissatisfied by the order dated 10.11.2020 in W.P.(C) 8872/2020.

2. The prayer in the writ petition reads as under :-

“(i) Writ of Certiorari quashing the order dated 09.04.2019 passed by the Respondent No.1, Delhi Development Authority in File no.DW2/0698/18-19 granting sanction to erect / re-erect / add to / alter buildings in Mandakini Cooperative Group Housing Society, Dwarka, Delhi;

(ii) Writ of Certiorari quashing the order dated 08.02.2019 passed by the Respondent No.2, Chief Fire Officer accepting proposal of the Respondent No.6 Society;

(iii) Writ of Mandamus directing the Respondents No.1, 3, 4 and 5 to ensure stoppage of all construction and development activity, especially the Floor Area Ratio (FAR) extension project being carried out by Respondent No.6 Managing Committee in the Mandakini Cooperative Group Housing Society forthwith;

(iv) Writ of Mandamus directing the Managing Committee of Respondent No.6 Society to restore the buildings/ society to their/ its original state as existed before the commencement of the said construction / development work at their cost;

v) Writ of Mandamus permanently injuncting the Respondent No. 6 Society from carrying out any construction work qua the respective Flats of the Petitioners herein or any construction work adversely affecting the existing structure and layout of the flats of the Petitioners herein without their consent and no objection certificate;

vi) Writ of Mandamus directing appointment of Administrator to manage the affairs of the Respondent No. 6 Society and further directing enquiry into the activities of the Managing Committee of the Society qua the development/construction work in the Society including financial irregularities and fraudulent acts committed by the members of the Managing Committee and removal of the financial liability created on the Petitioners of Rs.55,000/- towards the FAR

extension project without their consent/approval;

vii) Ensuring the protection of life & liberty under Article 21 of the Constitution of India of the petitioners and members of the society who have been adversely affected by the illegal acts of the Managing Committee of the society and direct Respondents No. 2 & 3 to ensure that all guidelines, rules and regulation qua Covid -19 are followed strictly in the Respondent No. 5 Society.”

3. The main grievance ventilated by the appellants (original petitioners) is against the sanction granted by Delhi Development Authority to erect/re-erect/add to/alter buildings in Mandakini Cooperative Group Housing Society, Dwarka, Delhi *vide* order dated 9th April, 2019 (annexed as Annexure A-2 to the appeal). It is submitted in this regard by the learned counsel for the appellants that Management of the Mandakini Cooperative Group Housing Society has obtained the sanction of the plan under Section 12 of the DDA Act, 1957 by fraud and misrepresentation.
4. Looking to the facts and circumstances of the case, we are of the view that the present appeal is not maintainable as the appellants have efficacious alternative remedy by way of an appeal under Section 31-C of the DDA Act, 1957 for challenging the sanction plan. This aspect of the matter has been correctly appreciated by the learned Single Judge and hence we see no reason to interfere with the order of the learned Single Judge dated 10.11.2020 in W.P.(C) 8872/2020.
5. The present appeal is accordingly dismissed as not maintainable. Pending applications also stand dismissed.
6. As and when any appeal is preferred by the appellants, the same shall be decided by the concerned Authority/Tribunal in accordance with law,

rules, regulations and Government policies applicable to the facts of the case and on the basis of the evidences on record. Needless to state that the decision will be taken without being influenced by the order of the learned Single Judge in W.P.(C) 8872/2020 dated 10.11.2020 and the order passed by this Court today.

CHIEF JUSTICE

JYOTI SINGH, J

JANUARY 8, 2021

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