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

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Judgment delivered on: 29.01.2021

+ W.P.(C) 1075/2021

ASHOK KUMAR & ORS.

..... Petitioners

versus

COMMISSIONER, EDMC & ANR.

.....Respondents

Advocates who appeared in this case:

For the Petitioner:

Mr. Sachin Dutta, Senior Advocate with Mr. Lalit Kumar Rawal & Mr. Pawan Sharma, Advocates.

For the Respondent:

Mr. Rajan Tyagi & Mr. Umang Tyagi, Advocates for EDMC/R-1.

CORAM:-

HON'BLE MR. JUSTICE SANJEEV SACHDEVA

JUDGMENT

SANJEEV SACHDEVA, J. (ORAL)

CM APPL.2997/2021(Exemption)

Exemption is allowed subject to all just exceptions.

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1. Petitioners impugn the order/letter dated 06.01.2021, whereby petitioners have been directed to remove the alleged illegal structure from the land in question within one month from the receipt of the notice.

2. Order dated 06.01.2021 states that the same is in compliance of directions contained in order dated 26.08.2019 in WP(C) 2365/2016

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to HMJ Sanjeev Sachdeva.

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of the High Court.

3. Learned Senior Counsel appearing for the petitioners contends that each of the petitioners has been in occupation of the respective subject land for several decades. He further submits that by order dated 26.08.2019 in WP(C) 2365/2016, the Division Bench of this Court had directed the respondents to remove the encroachment in accordance with Law, Rules, Regulations and Government Policy, after giving adequate opportunity of being heard to the owners/occupiers of the super-structure.

4. Learned Senior Counsel submits though a show-cause notice was issued which was duly replied to, no hearing was afforded to any of the petitioners.

5. Issue notice. Notice is accepted by learned counsel appearing for the respondents.

6. Learned counsel appearing for the respondents, under instructions, submits that the subject orders deal with the contentions of the petitioners as stated in their replies, however he concedes that no personal hearing was granted to the petitioners.

7. In view of the above, without commenting on the merits of the order, since no personal hearing has been granted to the petitioners which was mandated by order dated 26.08.2019 in WP(C) 2365/2016, the impugned order is set aside.

8. The matter is remitted to the respondents for granting a hearing to the Petitioners consequent to the show-cause notice issued to them and thereafter to pass a fresh order.

9. It is expected that the proceedings shall be finalized by the respondents expeditiously, preferably within a period of three weeks from today.

10. All rights and contentions of the parties are reserved.

11. Petition along with pending applications are disposed of in the above terms.

12. Copy of the order be uploaded on the High Court website and be also forwarded to learned counsels through email by the Court Master.

SANJEEV SACHDEVA, J.

JANUARY 29, 2021

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