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

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Judgment delivered on: 18.02.2021

+ W.P.(C) 2088/2021

ARVIND CHOPRA

..... Petitioner

versus

SOUTH DELHI MUNICIPAL CORPORATIONRespondent

Advocates who appeared in this case:

For the Petitioner: Mr. Sanjiv Sen, Senior Advocate with Mr. Ekansh Mishra, Advocate.

For the Respondent: Mr. Vipul Ganda, Standing Counsel with Mr. Aman Choudhary & Ms. Guresha Bhamra, Advocates for SDMC.

CORAM:-

HON'BLE MR. JUSTICE SANJEEV SACHDEVA

JUDGMENT

SANJEEV SACHDEVA, J. (ORAL)

CM APPL.6610/2021(exemption)

Exemption is allowed subject to all just exceptions.

W.P.(C) 2088/2021 & CM APPL.6121/2021(stay)

1. The hearing was conducted through video conferencing.
2. Petitioner impugns order dated 04.02.2021 passed by respondent/Corporation revoking the regularization plan approved on 10.04.2007 in respect of Property No.35-B/77, Punjabi Bagh West, New Delhi.

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Signing Date: 18.02.2021 19:48:14
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to HMJ Sanjeev Sachdeva.

W.P(C) 2088/2021

Page 1

3. Learned Senior Counsel for the petitioner submits that the main ground for rejection of the plan is that petitioner has sub-divided the plot and raised construction on the sub-divided plot and concealed the said fact at the time of seeking approval.

4. Learned Senior Counsel submits that sub-division of plot was recognised and even permitted by the respondent in the year 1983 and thereafter the sub-divided plot was mutated in the name of the petitioner. The properties are also assessed to House Tax independently. Thereafter, construction was raised which was regularized by the respondent in the year 2007. Said regularization is now sought to be revoked solely on the ground of alleged misrepresentation qua sub-division of the plot.

5. Learned Senior Counsel submits that there is no misrepresentation as the sub-division was well within the knowledge of the respondent as stated herein-in-above.

6. Learned Senior Counsel submits that though the order is appealable to the Appellate Tribunal MCD, petitioner has been constrained to approach this Court because the Appellate Tribunal MCD is not functional.

7. Learned senior counsel further submits that there is a threat of demolition qua the property of the petitioner even though petitioner's property is protected by the National Capital Territory of Delhi Laws (Special Provisions) Second (Amendment) Ordinance, 2020 as the same was constructed prior to the year 2007.

8. Issue notice. Notice is accepted by learned counsel appearing for respondent.

9. Learned counsel for the respondent submits that as per his instructions, there is no threat of demolition because petitioner is claiming protection of the National Capital Territory of Delhi Laws (Special Provisions) Second (Amendment) Ordinance, 2020. He submits that there is no material on record, at this stage, to show that the property of the petitioner was constructed after the cut-off date stipulated by the said Ordinance.

10. Learned counsel submits that only after an inspection of the property it can be determined as to whether fresh construction, after the cut-off date has taken place or not. He submits that the Corporation reserves its right to take action qua portions of the property which have been constructed after the cut-off date.

11. In view of the above, this Writ Petition is disposed of with a direction that there shall be no action of demolition of the petitioner's property for a period of two weeks after the commencement of the functioning of the Appellate Tribunal MCD or till the time the appeal/stay application of the petitioner is taken up for consideration by the Appellate Tribunal MCD, whichever is earlier.

12. It is clarified that the continuation of interim protection thereafter would be subject to orders to be passed by the Appellate Tribunal MCD. The Appellate Tribunal MCD shall consider the appeal/stay application of the petitioner without being influenced by

anything stated in this order.

13. The petition along with stay application is disposed of in the above terms.

14. Copy of the Order be uploaded on the High Court website and be also forwarded to learned counsels through email.

SANJEEV SACHDEVA, J.

FEBRUARY 18, 2021

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