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

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Judgment delivered on: 25.02.2021

+ W.P.(C) 2129/2021

SHEETAL JAIN

..... Petitioner

versus

SOUTH DELHI MUNICIPAL CORPORATION & ANR.

..... Respondents

Advocates who appeared in this case:

For the Petitioner: Mr. Alok Bhachawat with Mr. Uday Singh & Mr. Jeeva Nandan,
Advocates (through Video Conferencing).

For the Respondent: Mr. Murari Kumar, Advocate for R-1.
Mr. Naushad Ahmed Khan, ASC GNCTD (through Video
Conferencing).

CORAM:-

HON'BLE MR. JUSTICE SANJEEV SACHDEVA

JUDGMENT

SANJEEV SACHDEVA, J. (ORAL)

CM APPL.6222/2021(exemption)

Exemption is allowed subject to all just exceptions.

W.P.(C) 2129/2021 & CM APPL.6221/2021(stay)

1. Mr. Naushad Ahmed Khan, learned Additional Standing counsel GNCTD has filed, over e-mail of the Court Master, the notification dated 23.02.2021, issued by the Government of NCT of Delhi, notifying the appointment of the Presiding Officer for the Appellate Tribunal, MCD.

Signature Not Verified

Digitally Signed By: KUNAL
MAGGU
Signing Date: 26.02.2021 09:52:19
This file is digitally signed by PS
to HMJ Sanjeev Sachdeva.

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The same is taken on record.

2. Petitioner impugns the demolition order dated 12.01.2021.
3. Learned counsel appearing for respondent no.1 submits that the regularisation application of the petitioner has already been dismissed by order dated 01.12.2010.
4. Learned counsel for the petitioner submits that the respondents were directed by the Appellate Tribunal, MCD by its order dated 06.02.2012 to decide the application for regularization afresh.
5. Learned counsel submits that admittedly Corporation has not passed any fresh order on the regularization application as directed by the Appellate Tribunal by its order dated 06.02.2012.
6. Apart from directing the respondents to decide the regularisation application afresh and not to demolish the property of the petitioner till then, order dated 06.02.2012 directs that petitioner shall demolish all non-compoundable/unauthorized construction in her flat, if any, as pointed out by the respondent and shall deposit the compounding charges as applicable in respect of the entire building.
7. It is not the case of the respondent that after the order dated 06.02.2012, the non-compoundable/unauthorized construction in her flat has been pointed to the petitioner.
8. Since the order of the Appellate Tribunal dated 06.02.2012 has not been complied with by the respondent corporation and a decision on the regularization application has not been taken afresh, the Corporation could

not have passed the subject demolition order dated 12.01.2021.

9. This demolition order dated 12.01.2021 is accordingly quashed. Respondent/Corporation is now once again directed to comply with the direction of the Tribunal dated 06.02.2012 to re-consider the regularization application of the appellant.

10. Respondent shall first indicate to the petitioner the non-compoundable deviation/unauthorized construction in the flat as directed by Tribunal by its order dated 06.02.2012 and also communicate the compounding charges as applicable and thereafter on petitioner complying with the condition imposed by order dated 06.02.2012 of removing the non-compoundable deviations and payment of the regularization charges, the application of the petitioner for regularisation shall be considered and disposed of in accordance with law.

11. It is directed that at the time of consideration of the application personal hearing shall also be granted to the petitioner.

12. Petition is disposed of in the above terms.

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

SANJEEV SACHDEVA, J.

FEBRUARY 25, 2021

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