

\$~Suppl.-26

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

+ **CONT. APP. (C) 1/2021**

SMT. SUNITA AGGARWAL

.....Appellant

Through: Mr.Pramod Ahuja with Mr.Sumit Sahni, Advocates.

Versus

SH. YOGESH GARG & ORS.

.....Respondents

Through: Mr.Vikrant N.Goyal, Advocate for SDMC.
Mr.Jamal Akhtar, Advocate for R-4.

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Date of Decision: 10th March, 2021

CORAM:

HON'BLE MR. JUSTICE MANMOHAN

HON'BLE MS. JUSTICE ASHA MENON

J U D G M E N T

The appeal has been heard by way of video conferencing.

C.M.No.9626/2021

Allowed, subject to all just exceptions

Application stands disposed of.

Cont.APP.(C) No.1/2021 & C.M.No.9625/2021

1. Present appeal has been filed challenging the common order dated 11th February, 2021 passed by the learned Single Judge in Cont. Case (C)

806/2020 (filed by the appellant herein) and Cont. Case 819/2020 (filed by the respondents herein), whereby the Court has directed that the appellant's property shall be re-sealed after carrying out repairs.

2. Learned counsel for the appellant submits that the observation made by the learned Single Judge that no repair work could be carried out without de-sealing was correct and favorable to the appellant. However, according to him, the direction to further re-seal the property after carrying out the repair work was not required. He further challenges the decision of the SDMC to seal the appellant's property in question.

3. It is pertinent to mention that upon a writ petition i.e. WP(C) 7732/2020 being filed, a learned Single Judge of this Court vide order dated 13th October, 2020 directed the appellant to carry out repair in the respondents' property. Shortly thereafter, the appellant's property was sealed by SDMC on the ground that the appellant had removed a load-bearing wall and carried out unauthorized construction.

4. Thereafter, the appellant had filed a contempt case on the ground that the respondents were not allowing her to carry out the repair work and had got the appellant's property sealed through respondent no.3 – SDMC. Subsequently, the respondents had also filed a contempt case.

5. In our view, the learned Single Judge in contempt proceedings has only directed implementation of the order dated 13th October, 2020, whereby the appellant was directed to carry out repair and rectification of the building so as to ensure that damage caused to the respondents' property is redressed.

6. Since the sealing of the appellant's property was carried out by the respondent-Corporation while exercising its statutory rights, learned Single Judge has by way of the impugned order directed de-sealing only for

carrying out repair and rectification to the respondent's property by the appellant. After the said repair and rectification has been done by the appellant in the respondent's property, the learned Single Judge had directed restoration of status quo ante i.e. re-sealing of the property. Consequently, the learned Single Judge, while exercising the contempt jurisdiction, has not acted in excess or beyond the order dated 13th October, 2020.

7. Since there is nothing on record to show that the appellant in pursuance to the order dated 11th February, 2021 has taken any step to speak to the counsel for the Municipal Corporation to fix a programme for carrying out repair and rectification of the properties in question, this Court is of the view that the impugned order calls for no interference.

8. Further if the appellant is aggrieved by the decision of the respondent no.3 – SDMC, she is always at liberty to file appropriate legal proceedings in accordance with law. Needless to state, if any such proceeding is filed, the same shall be decided in accordance with law irrespective of any observations made by this Court. All the rights and contentions of the parties are left open.

9. At this stage, Mr.Pramod Ahuja, learned counsel for the appellant states that the appellant shall approach the counsel for Municipal Corporation as well as the learned Single Judge within a week for laying down a time schedule for carrying out repair and rectification work in the respondent's property.

10. The statement made by Mr.Pramod Ahuja is accepted by this Court and the appellant is held bound by the same.

11. With the aforesaid directions, the present appeal along with pending application stands disposed of.

12. The order be uploaded on the website forthwith. Copy of the order be also forwarded to the learned counsel through e-mail.

MANMOHAN, J

ASHA MENON, J

MARCH 10, 2021
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