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

Judgment delivered on: 06<sup>th</sup> April, 2021

+ **W.P.(C) 4241/2021 & CM APPL. 12890/2021**

**POONAM GUPTA & ANR.**

..... Petitioners

versus

**SOUTH DELHI MUNICIPAL CORPORATION OF DELHI & ORS.**

..... Respondents

**Advocates who appeared in this case:**

For the Petitioner: Mr. S.B. Tripathi, Advocate.

For the Respondent: Mr. Tushar Sannu, Standing Counsel, SDMC with  
Ms. Ankita Bhadouriya, Advocate (Through VC).  
Mr. Manjeet Singh Ahluwalia, Advocate for R-2.  
Ms. Jyoti Taneja, Advocate for R-3 (Through VC).

**CORAM:-**

**HON'BLE MR. JUSTICE SANJEEV SACHDEVA**

**JUDGMENT**

**SANJEEV SACHDEVA, J. (ORAL)**

1. Petitioner seeks a direction to the respondent/SDMC to demolish construction on the third floor of House No. E-69, South Extension, Part-I, New Delhi-110049 and further a direction to SDMC not to regularise the unauthorized construction on the third floor of the said property.

2. Petitioner claims to be the owner of the first and second floor of

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to HMJ Sanjeev Sachdeva.

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the subject property.

3. Learned counsel for the petitioner concedes that petitioner does not have any right to the third floor of the subject property.

4. Learned counsel appearing for the South Delhi Municipal Corporation submits that the unauthorized constructions were noticed in the year 2010, part demolition action was taken and property has been sealed. He submits that as of now, no construction activity is being carried out in the subject property.

5. He further submits that a representation was received from the respondent No.2 seeking his willingness to get the existing construction regularized for the purposes of de-sealing of the third floor. Said application is in under consideration and would be disposed of in accordance with law.

6. The relief sought by the petitioner in this petition is against the respondent/Corporation seeking demolition of the unauthorized construction and a restraint not to regularise the unauthorized construction on the third floor.

7. Since there is no construction activity, being carried out in the subject property as stated by learned counsel for the respondent/Corporation, which is also not disputed by the petitioner, no direction can be issued in the subject writ petition directing respondent corporation to carry out any demolition.

8. Insofar as the regularization application is concerned, as stated by learned counsel for respondent/Corporation and as is evident from the letter dated 12.01.2021 (Annexure P-1), said application is under consideration.

9. No restraint can be imposed upon the respondent corporation from considering an application seeking regularisation. Said application has to be considered and disposed of in accordance with law.

10. As to whether the regularisation application is to be allowed or not, it would be dependent upon the nature of the construction as to whether it is compoundable or regularise able. There cannot be a blanket embargo upon the corporation from even considering the application. On receipt of an application, Corporation is bound to pass appropriate order in accordance with law.

11. In view of the above, no direction can be issued in the subject writ petition. The petition is accordingly dismissed.

**SANJEEV SACHDEVA, J**

**APRIL 6, 2021**

**NA**