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

% Judgment delivered on: 29th September, 2021

+ **W.P.(C) 11107/2021 & CM. APPLS. 34244-45/2021**

BIVAS DEY NIYOGI & ORS.

..... Petitioner

versus

SOUTH DELHI MUNICIPAL CORPORATION Respondent

Advocates who appeared in this case:

For the Petitioner : Mr. Samir Sagar Vasishta and Mr. Nachiketa Suri,
Advocates (Through VC)

For the Respondent: Mr. Ajay Digpaul, Standing Counsel with Mr. Kamal R.
Digpaul, Advocate (Through VC)

CORAM:-

HON'BLE MR. JUSTICE SANJEEV SACHDEVA

JUDGMENT

SANJEEV SACHDEVA, J.

CM APPL. 34245/2021 (Exemption)

Allowed, subject to all just exceptions.

W.P.(C) 11107/2021 & CM APPL. 34244/2021 (for stay)

1. Petitioner seeks a direction to the respondent to decide the representations dated 09.08.2021 and 23.09.2021 of the petitioner and keep in abeyance the NOC dated 30.09.2016, granted by it to the petitioner for construction and installation of a lift.

W.P.(C) 11107/2021

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to HMJ Sanjeev Sachdeva.

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2. It is contended by the learned counsel for the petitioner that by letter dated 30.09.2016, respondent had granted NOC for installation of a common lift in the subject property. The permission was valid for a period of five years.

3. He submits that clause 4 provides that in case of any court case, NOC granted by the SDMC would become inoperative and would be kept in abeyance till final outcome of the court case.

4. Learned counsel further submits that there is a litigation with other flat owners on account of which a letter dated 20.06.2018, issued by the Assistant Engineer of the respondent, referring to a civil Suit between the flat owners, directed that the resumption of work relating to installation of lift would be subject to further order or granting of stay by the Court.

5. Learned counsel for the petitioner submits that there is a direction by the High Court in FAO 496/2018, *Jagmohan Chopra & Anr. Vs. SDMC & Ors.*, directing status quo to be maintained because of which the work could not be carried on.

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

7. Learned counsel appearing for the respondent submits that there was a corrigendum to the original policy and the condition for keeping

the permission in abeyance is not merely filing of a court case but a stay being granted by a court of law. He, however, admits that in the present case there is a stay granted.

8. Since the prayer B and C sought for by the petitioner are consequential to prayer A, it is deemed expedient to dispose of the petition by directing the respondents to decide the representation dated 09.08.2021 and 23.09.2021 by a speaking order, preferably within a period of four weeks from today.

9. The speaking order shall also be communicated to the petitioner. It would be open to the petitioner to avail of his remedies, in case petitioner is aggrieved by the speaking order. All rights and contentions of the parties are reserved.

10. Petition is disposed of in the above terms.

SANJEEV SACHDEVA, J
SEPTEMBER 29, 2021
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