

\$~5 & 6

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

% Judgment delivered on: 27.03.2023

+ **CM(M) 31/2023 & CM APPL. 1037-38/2023**

CM(M) 33/2023 & CM APPL. 1068-69/2023

GOVIND SWARUP & ANR Petitioner

versus

MUNICIPAL CORPORATION OF DELHI Respondent

Advocates who appeared in this case:

For the Petitioner : Ms. Neena Malhotra and Mr. Sanam Malhotra, Advocates

For the Respondent : Mr. G.S. Oberoi, Standing Counsel with Mr. Ankur Sharma, Advocate

CORAM:
HON'BLE MR. JUSTICE TUSHAR RAO GEDELA

JUDGMENT

TUSHAR RAO GEDELA, J. (ORAL)

[The proceeding has been conducted through Hybrid mode]

1. The petitioners are aggrieved by the pendency of the application filed under Section 151 of CPC, 1908 pending before the learned Appellate Tribunal, Municipal Corporation of Delhi (hereinafter as “ATMCD”) at Tis Hazari Courts, whereunder the petitioners, who are the appellants before the ATMCD, sought directions to the respondents to file on record documents pertaining to Shop No. 635, Old Lajpat Rai Market, Chandni Chowk, Delhi (hereinafter as “Shop No. 635”) in

respect of which, according to the petitioners, sealing order dated 05.11.2020 was passed and demolition order also was passed.

2. Ms. Neena Malhotra, learned counsel appearing for the petitioners submits that in respect of the aforesaid shop there was a sealing and demolition order passed by the respondent, learned counsel submits that in respect of the said shop an appeal was filed by the owner of the said shop and while the appeal was pending, the said owner withdrew the appeal before the ATMCD. She further submits that after having withdrawn the said appeal, subsequently the appellant in that case had opened the said shop and is still operating the same without any interference by the respondent/MCD.

3. Learned counsel submits that the precise reason to seek for such records is to show to the ATMCD, the apparent discrimination on the part of the respondent in dealing with the situation between the shop owned by the present petitioners, in comparison to that of owner of Shop No. 635.

4. Learned counsel submits that the documents pertaining to the said shop were sought summoning of, before the learned ATMCD through the aforesaid application, which is yet not been disposed of despite passage of more than one and a half years.

5. Ms. Malhotra, learned counsel submits that such inaction has caused grave prejudice to the petitioners inasmuch it affects the very livelihood of the petitioner as also the dependants of the petitioners.

6. Mr. G.S. Oberoi, learned Standing Counsel appearing for the respondent/MCD submits that in the case of Shop No. 635 referred to by Ms. Malhotra, the sealing was followed by de-sealing. Subsequent to the

de-sealing, the owner of Shop No.635 rectified the defects by appropriate action taken by him and on that basis the owner of Shop No. 635 was permitted to continue his business from the said shop without any subsequent action by MCD.

7. Mr. Oberoi, learned Standing Counsel submits that the entire file pertaining to Shop No. 635 shall be produced and placed before the learned ATMCD for its kind consideration, in accordance with the orders as directed by this Court.

8. In view of the aforesaid submissions of the parties, the respondent/MCD is directed to produce the entire record pertaining to Shop No. 635 and place the same before ATMCD on or before 13.04.2023 positively without fail. Learned ATMCD may consider the submissions made on behalf of the petitioners in view of the records as summoned in accordance with law.

9. The application under Section 151 of CPC, 1908, as filed by the petitioner, in view of the present order, is infructuous and need not be adjudicated by the ATMCD.

10. In view of the aforesaid, the petitions along with pending applications are disposed of with no order as to costs.

TUSHAR RAO GEDELA, J.

MARCH 27, 2023

ॐ