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

Date of decision: 14.12.2023

+ CM(M) 1605/2023

HEMANT CHANDRA SHARMA Petitioner

Through: Mr. Arun Maitri and Ms. Radhika,
Advocates

versus

NEW DELHI MUNICIPAL COUNCIL Respondent

Through: Mr. Sanjay Sharma, ASC with Mr.
Dasman Sethi, Advocate

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CORAM:

HON'BLE MS. JUSTICE MANMEET PRITAM SINGH ARORA

J U D G M E N T

MANMEET PRITAM SINGH ARORA, J (ORAL):

CM APPL. 64921/2023

1. This is an application filed by the Petitioner under Section 151 of Code of Civil Procedure, 1908 ('CPC') seeking alternative prayers which are reproduced as under: -

"(a) to de-seal the Premises No. E-1, Radial Road & Middle Circle, E-Block, Connaught Place, New Delhi – 110001 subject to furnish of an "Undertaking" before the Hon'ble Court that Petitioner will not carry out "Repairs & Renovations" in the premises in question till the time Respondent / NDMC / HCC sanction – approve the permission and allow the Petitioner to carry out Repairs & Renovations in the premises in question;

OR IN ALTERNATIVE

To permit the Petitioner to challenge the legality and validity of Sealing



Order No. D/368-69/EE(E-BR) 2023 dated 20.05.2023 as was challenged in Appeal No. 582/ATMCD/2023 before Ld. ATMCD;

(b) pass any other relief which this Court may deem fit and proper in the facts and circumstances of the present case.”

(Emphasis Supplied)

2. Learned counsel for the Petitioner states that the application filed before the Respondent for carrying out repairs and renovation has been rejected and therefore, the Petitioner has been left remediless.
3. This Court is not inclined to entertain prayer ‘a’, whereby the Petitioner is seeking a direction to the Respondent to de-seal the premises.
4. However, this Court is inclined to allow the alternative prayer in the application, seeking leave to revive Appeal No. 582/ATMCD/2023 which was initially filed against the sealing order dated 20.05.2023 passed by the Respondent herein.
5. It is a matter of record that the said appeal was disposed of on 21.09.2023 on the statement made by the Petitioner herein, without deciding the same on merits.
6. Accordingly, the said alternative prayer is allowed and the order of the Appellate Tribunal Municipal Corporation of Delhi (‘ATMCD’) dated 21.09.2023 disposing of the Appeal No. 582/ATMCD/2023 is hereby set aside and the appeal is restored to its original number.
7. The parties are directed before ATMCD on 21.12.2023.
8. Learned counsel for the Respondent states that the Petitioner has filed two separate writ petitions i.e., W.P.(C) Nos. 13477/2023 and 13705/2023 on the same cause of action and the sealing order dated 20.05.2023 is also a subject matter of challenge in the said writs. He states that, therefore, this will lead to multiplicity of proceedings.



9. In reply, learned counsel for the Petitioner states that he undertakes to this Court that since his statutory right of appeal is being restored, he will withdraw W.P.(C) 13477/2023 on the next date of listing before the concerned Court. The statement of the Petitioner is taken on record and he is bound down to the same.

10. He states that W.P.(C) 13705/2023 already stand dismissed vide order dated 17.10.2023. The said statement is taken on record.

11. Accordingly, the application stands disposed of.

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12. In view of the orders passed in CM APPL. 64921/2023, the petitioner does not press for any further relief.

13. Accordingly, the present petition along with pending applications are disposed of.

14. The date of 10.01.2024 stands cancelled.

MANMEET PRITAM SINGH ARORA, J

DECEMBER 14, 2023/msh/aa

Click here to check corrigendum, if any