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

+ W.P.(C) 1719/2022

DR SHIV CHOPRA AND ANR

.....Petitioners

Through: Mr. Mayank Arora and Mr. Md. Sabir, Advocates.

versus

SOUTH DELHI MUNICIPAL CORPORATION
AND ANR.

.....Respondents

Through: Ms. Aakanksha Kaul, Mr. Akash Saxena, Mr. Aman Sahani, Advocates for R-1.
Ms. Shobhana Takiar, SC for DDA with Mr. Prateek Dhir, Mr. Shivam Takiar and Mr. Kuljeet Singh, Advocates.

CORAM:

HON'BLE MR. JUSTICE PRATEEK JALAN

ORDER

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18.10.2024

CM APPL. 61307/2024 (for directions) & W.P.(C) 1719/2022

1. The petitioners have filed the present application for permission to carry out repair work on the rear portion of the terrace of the property situated at *R-151, Greater Kailash, Part-1, New Delhi-110048* ["subject property"].
2. Ms. Aakanksha Kaul, learned counsel for the Municipal Corporation of Delhi ["MCD"], is present and in the course of hearing it appears that the writ petition itself can be taken up for hearing and disposed of.

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3. The petitioners instituted this petition under Article 226 of the Constitution in the year 2022, principally against alleged unauthorised construction carried out by respondent No.2 in the rear portion of the terrace of the subject property. They also sought directions upon respondent No.2 to remove the flower pots placed on the terrace, and to ensure that no seepage or damage occurs on the second floor of the subject property, which is owned by the petitioners.

4. It may be noted that respondent No.2 has passed away during the pendency of the proceedings, and an application has been filed by the petitioners for substitution of the legal heirs. In view of the order I propose to pass, I do not consider it necessary to implead the legal heirs at this stage.

5. It is stated by Mr. Mayank Arora, learned counsel for the petitioners, that the alleged unauthorised construction and flower pots placed on the terrace of the property have been removed in the meantime.

6. However, the petitioners seek further directions, pursuant to an order dated 19.04.2023, by which the petitioners and respondent No.2 were directed to carry out repairs in their respective portions of the terrace of the property. It is the contention of the petitioners that, although respondent No.2 reported compliance of the said order, the repairs were inadequate and seepage continues from the rear portion of the terrace.

7. The admitted position, as recorded above, is that the unauthorised construction, which was the principal grievance urged by the petitioners, has been remedied. The question of whether any part of the terrace requires further repairs, at this stage, eighteen months after the order dated 19.04.2023, is in my view, not a matter for the present writ



proceedings. The writ petition has worked itself out with the admitted remedial action taken by MCD with regard to unauthorised construction. If the petitioners have any further grievance against the legal heirs of respondent No.2, with regard to the title, possession or maintenance of any part of the subject property in question, they are at liberty to take independent proceedings available to them in law.

8. It is made clear that this Court has not rendered a finding on any of the aforesaid aspects. All rights and contentions of the parties in this regard are left open for adjudication.

9. The petition, alongwith any pending applications, is disposed of accordingly.

10. The next date of hearing i.e., 21.11.2024 stands cancelled.

PRATEEK JALAN, J

OCTOBER 18, 2024
SS/