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

\+ W.P.(C) 5263/2024, CM APPL. 21557/2024, CM APPL. 24321/2024

DHARMINDER SARNA ..... Petitioner

Through: Mr. Saurabh Seth, Adv. alongwith Ms. Neelam Deol and Mr. Abhiroop Rathore, Advs.

versus

NEW DELHI MUNICIPAL COUNCIL ..... Respondent

Through: Mr. Arun Birbal, Mr. Tushar Sannu and Mr. Sanjay Singh, Advs. for NDMC.

CORAM:
HON'BLE MR. JUSTICE SACHIN DATTA

O R D E R

% **22.05.2024**

1. The present petition has been filed by the petitioner assailing the attachment order dated 27.02.2024, under Section 102 of the NDMC Act, 1994, referred to in the notice/report filed as Annexure A-1 to the present petition. The said attachment has been occasioned on account of non-payment by the petitioner of the demand/s towards property tax raised by the respondent, in respect of the property bearing Flat No.911, Ansal Bhawan, Barakhambha Road, K. G. Marg, New Delhi-110001.

2. It is submitted by the learned counsel for the respondent that there are arrears of the property tax for the period 2015 onwards.

3. It transpires during the course of hearing, that the demand notices/attachment action taken by the respondent/NDMC *qua* the property in question is occasioned on account of notices dated 26.03.2012 and 30.03.2023, issued by the NDMC under Section 72 of the NDMC Act, 1994.

The said notice/s culminated into an assessment order dated 16.01.2023 filed as Annexure R-1/H of the counter-affidavit filed on behalf of the respondent/NDMC, and an assessment order dated 01.03.2024, filed as Annexure R-1/I of the aforesaid counter-affidavit. *Vide* the said assessment order/s, the rateable value of the property in question has been substantially increased.

4. Learned counsel for the petitioner raises a two fold contention. Firstly, it is submitted that the order/s under 72 of the NDMC Act is in utter violation of the dicta laid down by this Court in ***Ved Marwah v. New Delhi Municipal Council,*** 2018 SCC OnLine Del 8096 inasmuch as the notice dated 26.03.2012 issued under Section 72 of the NDMC Act has been purported to be finalized more than 10 years later viz. vide order dated 16.01.2023.

5. Secondly, it is submitted that the aforesaid orders under Section 72 of the NDMC Act dated 16.01.2023 and 01.03.2024 have been passed without affording any opportunity of hearing to the petitioner, and are therefore vitiated on account of blatant violation of the principles of natural justice.

6. Learned counsel for the respondent strongly refutes the aforesaid contentions.

7. On a perusal of the aforesaid orders dated 16.01.2023 and 01.03.2024 under Section 72 of the NDMC Act, 1994, it is evident from the face of the orders itself that the same have been passed without affording any hearing to the petitioner.

8. After some hearing, learned counsel for the petitioner confines himself to seeking that the Respondent/NDMC be directed to grant an opportunity of hearing to the petitioner and consider the pleas sought to be

raised by the petitioner with regard to the legality of the aforesaid orders under Section 72, and the consequential demand/s raised on the petitioner.

9. Considering the aforesaid, and especially considering that the petitioner was not heard prior to passing of the aforesaid order/s under Section 72 of the NDMC Act, 1994, it is directed that the respondent shall treat the present petition as a representation and consider the objections raised by the petitioner qua the aforesaid assessment orders and the consequential demands sought to be raised upon the petitioner. Let a speaking order be passed by the NDMC within a period of four weeks, after affording an opportunity of hearing to the petitioner. If so warranted upon the conclusion of the aforesaid exercise, the orders dated 16.01.2023 and 01.03.2024 under Section 72 of the NDMC Act, 1994 and the consequential demand/s raised qua the property in question, shall be suitably amended/rectified.

10. Learned counsel for the petitioner further submits that during the pendency of the aforesaid exercise, the property in question be de-sealed. It is submitted that the NDMC has no power to seal the property of the petitioner; however, without prejudice to the said contention, the petitioner is willing to pay an ad-hoc amount of Rs.25 lakhs to the NDMC, subject to the outcome of the aforesaid exercise.

11. In the circumstances, it is directed that upon payment of the aforesaid amount of Rs.25 lakhs by the petitioner to the NDMC, the property in question shall be de-sealed forthwith.

12. It is further clarified that upon conclusion of the aforesaid exercise, the respondent/NDMC shall be entitled to enforce the remaining outstanding demand/s, if any, in respect of the property in question. Likewise, if the

petitioner is aggrieved with the outcome of the aforesaid exercise, he shall be entitled to avail its appellate/ statutory remedies, in accordance with law.

13. With the aforesaid directions, the present petition, along with pending application/s, stands disposed of.

SACHIN DATTA, J

MAY 22, 2024/r