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

\+ W.P.(C) 5346/2024

AJIT KUMAR ..... Petitioner

Through: Mr. Prem Prakash Upadhyay and Ms. Sukanya Hazarika and Mr. Abhishek Ranjan, Advs.

versus

MUNICIPAL CORPORATION OF DELHI ..... Respondent

Through: Mr. Tushar Sannu, SC for MCD alongwith Mr. Manoviraj Singh, Adv.

CORAM:
HON'BLE MR. JUSTICE SACHIN DATTA

O R D E R

% **15.04.2024**

CM APPL. 21915/2024 (Exemption from filing certified copy and translated etc.)

Allowed, subject to all just exceptions.

The application stands disposed of.

W.P.(C) 5346/2024

1. The present petition seeks that the property bearing No.C-1/7, Rana Pratap Bagh, Delhi-110007 be de-sealed by the respondent/MCD. The attachment/ sealing of the said property is evidently pursuant to a *suo motu* assessment order dated 05.03.2024 issued by the MCD under Section 123D of the DMC Act.

2. Learned counsel for the petitioner submits that the said assessment order has been passed without giving an opportunity of hearing to the petitioner and without taking into account the PTRs filed by the petitioner.

3. It is further submitted by the learned counsel for the petitioner that

there has been no misdeclaration on the part of the petitioner that warranted invocation of Section 123D of the DMC Act. Further, it is submitted that the show cause notice issued to the petitioner also does not meet the requirements set out in Para 22 (1) of the judgment passed by a Division Bench of this Court in ***Springdales School v. North Delhi Municipal Corporation& Ors.*** 2017SCC OnLine Del7050.

4. Issue notice.

5. Learned counsel, as aforesaid, accepts notice on behalf of the respondent.

6. Learned counsel for the respondent strongly refutes the contentions made by the learned counsel for the petitioner. He submits that admittedly, as per the pleadings made in the petition itself, and as per the representation submitted by the petitioner to the MCD, there has been a lapse on the part of the petitioner in paying the requisite property tax for a number of years. He submits that the petitioner in his representation dated 04.04.2024 has also submitted that he is willing to pay an ad-hoc payment to the MCD towards property tax dues.

7. After some hearing, respective counsel for the parties are in agreement that the present petition filed by the petitioner be treated as a representation by the MCD, which shall be disposed of by the MCD vide a speaking order after affording an opportunity of hearing to the petitioner. It is directed accordingly.

8. It is further agreed that pursuant to the aforesaid exercise, if the assessment order under Section 123D is required to be amended/rectified, the same shall also be done by the MCD. It is directed accordingly.

9. Let the aforesaid exercise be completed within a prior of six weeks

from today.

10. Leaned counsel for the petitioner strenuously urges that in the meantime, during the pendency of the aforesaid exercise, the premises in question be de-sealed. He submits that the petitioner is willing to pay an ad-hoc amount to the MCD as a pre-condition thereof.

11. Accordingly, it is directed that subject to the petitioner paying an ad-hoc account of Rs. 5 lakhs to the MCD within a period of two days from today, the respondent shall forthwith de-seal/de-attach the property in question. The same shall be without prejudice to the respective rights and contentions of the parties, and subject to outcome of the aforesaid exercise.

12. The present petition is disposed of in the above terms.

13. Copy of this order be given *dasti*.

SACHIN DATTA, J

APRIL 15, 2024/r