



2024:DHC:8518



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

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Decided on: 04.11.2024+ **W.P.(C) 5704/2024 & CM APPLs. 23549/2024, 33199/2024**

MANMEET YADAV

.....Petitioner

Through: Mr.Tanmaya Mehta, Mr.Vinay
Kuamr Dubey, Mr.Vishal Kumar
Malhotra, Mr.Saurabh Singh,
Mr.Akshay Vashist, Ms.Priys,
Ms.Simran Sharma and Mr.Shivam
Tiwari, Advocates

versus

MUNICIPAL CORPORATION
OF DELHI & ANR.

.....Respondents

Through: Mr.Ajjay Aroraa and Mr.Kapail
Dutta, Advocates for MCD
Mr.Vaibhav Agnihotri, ASC for
DDA with Mr.Harshit Kiran and
Mr.Ankit Singh, Advocates

CORAM:**HON'BLE MR. JUSTICE PRATEEK JALAN****PRATEEK JALAN, J. (ORAL)**

1. The petitioner is the owner of three shops bearing Nos. 5, 6 and 7 located at Convenience Shopping Complex, Hauz Khas, New Delhi ["the shops"]. He seeks directions upon respondent No.2- Delhi Development Authority ["DDA"] with regard to an application dated 21.04.2022 for amalgamation of the shops, in terms of a policy issued by DDA on 08.06.2022.
2. DDA issued a Standard Operation Procedure ["SOP"] on 08.06.2022, pursuant to a judgment of this Court dated 03.02.2022 in



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WP(C) No.14461/2021 [*M/s Multicity Hospitalities LLP v. EDMC & Anr.*] with regard to amalgamation of built-up shops. The petitioner made an application on 21.04.2022 pursuant to this policy, accompanied by a structural safety certificate issued by Mr. R.V. Kumar, who is a structural engineer registered with the Municipal Corporation of Delhi [“MCD”].

3. The issue raised in this petition is whether DDA can insist upon the said structural safety certificate being “*verified*” by MCD, as a pre-condition for consideration of the amalgamation request. While issuing notice in this petition on 24.04.2024, it was noticed that while DDA seeks such verification by MCD, MCD in turn has commenced action against the petitioner for want of approval from DDA. In these circumstances, the Court directed that a meeting be held between the concerned officers of DDA and MCD to find a solution as to how the petitioner is to comply with the requirement regarding submission of the structural safety certificate.

4. MCD has filed a counter affidavit dated 24.08.2024, which is not on record, however, Mr. Kapil Datta, learned counsel for MCD, hands up in Court a copy of the said counter affidavit, which is taken on record. The minutes of the said meeting held on 02.05.2024 pursuant to the order dated 24.04.2024, have been filed with the affidavit. In the said minutes, it has been noted that DDA requested MCD to verify the certificate issued by the architect, but MCD stated that it does not have any mechanism to verify the certificate. The list of structural engineers empanelled by MCD was available online, in which the name of Mr. R.V. Kumar was also appearing. The affidavit of MCD states that in the light of the above position, “*the necessary action is warranted on the part of D.D.A*” in



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terms of the orders of this Court dated 24.04.2024 and 24.07.2024.

5. By the order dated 24.07.2024, it was recorded that DDA has to take a call as to whether it would accept the certificate produced by the empanelled structural engineer, who has already certified the amalgamation of the property in question. The respondents were to place their stand on record. DDA has not done so, despite the said order and the order dated 28.08.2024. A counter affidavit dated 28.10.2024 has been handed up in Court and is taken on record. DDA has reiterated its stand that MCD is required to verify the certificate of the structural engineer.

6. Having heard the learned counsel for the parties, I find that the petitioner's application has been held up for more than two years on account of no fault of his. The disagreement between MCD and DDA as to the procedure for certifying the safety of the structure of a building cannot come in the way of an appropriate decision being taken on the petitioner's application.

7. It may be noted that MCD has empanelled structural engineers and other professionals, whose certification is accepted for the purpose of discharging numerous statutory responsibilities of the municipal authority, including sanctioning building plans, regularizing construction, and granting completion certificates. While entrusting the task of certification to qualified professionals duly licensed and empanelled, MCD retains the authority to take action against the concerned professional, in the event a certification is found to have been wrongly accorded.

8. I do not find anything amiss in such a policy. The procedure for certification by licenced professionals reduces the administrative burden



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on the municipal authorities, while holding qualified professionals responsible for the certificate issued by them.

9. However, the stand of DDA is that the correctness of the certificate issued by the licenced professional must be verified by MCD. This virtually overturns MCD's requirement of professional certification, inasmuch as MCD would be required to examine the structural safety of the building itself through its own engineers, prior to verifying the same. I find no warrant for such a position. No legal requirement has been shown to me, which requires MCD to conduct a structural safety audit itself, to verify a structural safety certificate produced by the petitioner. If the municipal body is content with the professional certification, and has made this position clear to DDA, I am unable to see any justification for DDA insisting upon any further verification by MCD.

10. DDA is, therefore, directed to process the petitioner's application in accordance with law, without insisting upon any further verification by MCD in respect of the structural safety certificate issued by Mr. R.V. Kumar. If there is any doubt as to the genuineness of the certificate, i.e., whether Mr. R.V. Kumar has, in fact, issued the certificate, DDA is at liberty to verify the same with him. DDA is directed to take a decision on the application of the petitioner to amalgamate the shops within a period of 8 weeks from today.

11. The petition, alongwith the pending applications, is disposed of in terms of the above.

PRATEEK JALAN, J

NOVEMBER 4, 2024

"sv"/Adhiraj/