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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **W.P.(C) 8878/2021&CM APPL. 22714/2022**
CHANDER SHEIKHER KHIRBAT & ORS. Petitioners
Through: Mr. Gandharv Anand, Adv. (through
VC) alongwith Mr. Ghanisht Bagaria,
Adv.

versus

SOUTH DELHI MUNICIPAL CORPORATION & ORS.

..... Respondents

Through: Mr. Ashutosh Gupta, ASC for MCD
(through VC) alongwith Mr. Anil Kr.
Gupta, Adv. for MCD.
Mr. Sandeep Sethi, Sr. Adv. alongwith
Mr. Darpan Wadhwa, Sr. Adv., Ms.
Meghna Mishra, Mr. Tarun Mehta and
Ms. Yashodhara Gupta, Adv. for R-2.
Mr. Anil Sapra, Sr. Adv. alongwith
Mr. Sarthak Katyal, Adv. for R-3.

CORAM:

HON'BLE MR. JUSTICE SACHIN DATTA

ORDER

30.04.2024

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1. The present petition raises a grievance as regards alleged unauthorized commercial construction at property bearing no.57, Road No.41, West Punjabi Bagh, New Delhi.

2. A status report dated 09.02.2024 has been filed on behalf of the MCD, wherein, it has been categorically stated that the application submitted by respondent no. 2 for regularization of construction and user of the property has been considered favourably by the MCD. It has been stated in the said status report as under:-

“4. That, as such, the regularization plan has been issued vide file No. 45/Reg./EE(B)-I/WZ/2023 dated 19.10.2023. The copy of the calculation sheet for an amount of Rs.53,51,122/- (say Rs. 53,51,200/-) and the



letter/communication dated 19.10.2023 bearing No. D-424/EE(B)-I/WZ/2023/ AE(B), issued to Sh. Vipul Jain, Authorized Representative of M/s. C. K. Birla, Healthcare Pvt. Ltd. are annexed as Annexure –A & B (respectively).

5. That, as such, the pending writ petition is required to be disposed of, in view of the fact that the subject property has been regularized and the cause of action does not subsist anymore.”

3. A copy of the communication dated 18.10.2023 issued by the MCD to the representative of the respondent no.2 has also been enclosed alongwith the affidavit filed by the respondent no.2. The same reads as under:-

“MUNICIPAL CORPORATION OF DELHI
OFFICE OF THE EXECUTIVE ENGINEER (BLDG.)-I
WEST ZONE, SECOND FLOOR,
DR. SAHIB SINGH VERMA NIGAM BHAWAN,
SHIVAJI ENCLAVE, NEW DELHI-110027

No : D423/EE(B)-I/WZ/2023/AE(B)

Dated : 18-10-2023

Shri Vipul Jain
Authorized representative for
M/s C. K. Birla Health Care Pvt. Ltd.,
P. No. 57, Road No.41,
West Punjabi Bagh,
New Delhi

Subject :- Reg.- Regularization of P. No.57, Road No.41, West Punjabi Bagh, New Delhi (M / s C. K. Birla Health Care Pvt. Ltd.), New Delhi

Sir,

With reference to your application for regularization for Property No.57, Road No. 41, West Punjabi Bagh, New Delhi it is to inform that the case has been considered and approved by the Competent Authority. Accordingly, compounding charges amounting to Rs. 53,51,200/- has been calculated on the basis of the proposal submitted by you and the competent authority has accorded the permission subject to following conditions :

1. To ensure clear title of ownership (no dispute).
2. Ensuring the availability of clear ECS.

You are, therefore, requested to deposit regularization fees/compounding charges amounting to Rs. 53,51,200/- in favour of ‘Commissioner, MCD’ through Demand Draft, within 07 days on any



working day between 10.00 AM to 3.00 PM, so that regularization plan could be released.

*Sd/-
Asstt. Engineer (Bldg.)
West Zone"*

4. Learned counsel for the MCD submits that the conditions enumerated in the said communication have been satisfied by the respondent no.2. Consequently, both the user and the subsisting construction stand regularized. He submits that in view thereof, the prayers sought by the petitioners in the present petition have been rendered infructuous.

5. Learned counsel for the petitioners, however, submits that notwithstanding the aforesaid, there are other aspects which require consideration viz. the conduct of the respondent no.2 in raising unauthorized construction in blatant violation of extant norms and regulations, and the consequent irregularity/ illegality involved in considering the respondent no.2's application for regularization and/or in the grant of permission under Section 347.

6. In view of the regularisation granted by the MCD, the prayers sought in the present petition do not survive for consideration. Consequently, the present petition is dismissed. However, liberty is granted to the petitioners to agitate its other grievances before the MCD and make a representation for the said purpose, which shall be duly considered by the MCD, in accordance with law, and shall be subject to appropriate legal remedies that may be availed by the petitioners.

SACHIN DATTA, J

APRIL 30, 2024/r