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

+ W.P.(C) 7988/2024

SOUTH INDIA CLUB

.....Petitioner

Through: Mr. Suryadev Kaushik, Advocate.

versus

NEW DELHI MUNICIPAL COUNCIL & ORS.Respondents

Through: Ms. Kanika Agnihotri, SC with
Mr. Sachin Sharma, Advocate for
NDMC.

Mr. Harsh Kumar, SPC for R-2.

CORAM:

HON'BLE MR. JUSTICE PRATEEK JALAN

ORDER

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13.11.2024

1. The petitioner – South India Club is a registered society under the Societies Registration Act, 1860. It has constructed a building on land owned by it in *Mandir Marg, New Delhi*, pursuant to a sanctioned plan.

2. The present controversy concerns the petitioner's application for issuance of completion plan/completion certificate. New Delhi Municipal Council ["NDMC"] has issued an undated letter to the petitioner [Annexure P-1], enumerating various conditions, which it is required to comply with in this regard. Condition No. 3 reads as follows:

"3. Demolition of unauthorised construction/encroachment from Govt. land as shown in the sanctioned plan."

3. It is the contention of the petitioner that the condition imposed with regard to removal of unauthorised construction/encroachment from



government land is misconceived, as the petitioner has not undertaken any such unauthorised construction/encroachment.

4. Mr. Suryadev Kaushik, learned counsel for the petitioner, refers to a judgment dated 03.06.2016 passed by this Court in W.P.(C) 3698/2014, which concerns a No Objection Certificate [“NOC”] granted to the petitioner for construction of the building. He submits that this Court found that the unauthorised construction/encroachment had been undertaken by respondent No. 3 –Delhi Tamil Education Association, and not by the petitioner. He submits that the petitioner is therefore not in a position to remove the unauthorised construction/encroachment, but has no objection to NDMC taking such action, in accordance with law, in this regard.

5. Ms. Kanika Agnihotri, learned counsel for NDMC, submits that the petitioner’s grievance stands substantially resolved by the respondent. She draws my attention to the counter affidavit filed by the NDMC dated 23.09.2024, wherein it has taken the following stand:

“xxx

xxx

xxx

4. In view of the above and the principal prayer made in the petition - the respondent states that the Petitioner must remove the encroachment that exists on the land that has been leased to the Petitioner and that is in the possession of the Petitioner. To the extent that the encroachment exists on government land, the respondent would take steps independently. However, it is submitted that for the encroachment existing on the government land, the Petitioner must cooperate by demolishing the illegal structure on the land leased to it.

5. It is needless to say that the action of the Petitioner and the respondent herein are also bound by the orders of this Hon'ble Court on 08.02.2024, in Delhi Tamil Education Association .v. NDMC [WPC 1858/2024]. The said order is annexed as Anenxure-45 to the petition.

6. It is respectfully submitted that the to extent of the grievance of the Petitioner which pertains to condition no 3 of Annexure - 1 that



reads as under :-

3. Demolition of unauthorized construction/encroachment from Govt Land as shown in the sanctioned plan.

The same can be read as :-

3. Demolition of unauthorized construction/encroachment from the Land leased to the Petitioner as shown in the sanctioned plan.

7. It is respectfully submitted that once the Petitioner complies with the conditions that are made incumbent on it by virtue of Annexure- 1 (including the above mentioned amendment), it may then submit its application for grant of completion certificate to the respondent, which the respondent would consider in accordance with law and other applicable rules.”

[Emphasis supplied.]

6. Ms. Agnihotri submits that the encroachment on public land by respondent No. 3, and construction erected by respondent No. 3 on the land allotted to the petitioner, are the subject matter of a separate writ petition [W.P.(C) 1858/2024], which has been filed by respondent No. 3. In that petition, this Court has passed an interim order dated 08.02.2024 protecting the respondent No. 3 herein from any coercive or precipitative step. However, she submits that if there is any construction on the property leased to the petitioner herein, which is not protected by the interim order in W.P.(C) 1858/2024, the petitioner would be required to remove that construction, prior to issuance of a completion certificate.

7. Having regard to these submissions, the writ petition is disposed of with the following directions:

A. The respondent – NDMC will convey to the petitioner, within two weeks from today, as to whether there is any unauthorised construction on the land leased to the petitioner which, according to the NDMC, is not the subject matter of W.P.(C) 1858/2024, and



is therefore required to be removed by the petitioner.

- B. Removal of such identified construction will constitute sufficient compliance of condition No. 3 in the impugned letter [Annexure P-1].
- C. The petitioner may submit necessary documents to show compliance of the other conditions in the impugned letter, following which the NDMC will take necessary steps for issuance of the completion plan/completion certificate, as sought by the petitioner, in accordance with law.
- D. The aforesaid directions will not come in the way of NDMC taking steps with regard to any encroachment on public land, after compliance of statutory formalities, if any, and subject to orders passed in W.P.(C) 1858/2024, as applicable.

PRATEEK JALAN, J

NOVEMBER 13, 2024

“Bhupi”/