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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **CM(M) 2805/2024**
SHRI RAJINDER KUMAR

.....Petitioner

Through: Mr. Deepak Tyagi, Advocate.

versus

MUNICIPAL CORPORATION OF DELHI & ORS.

.....Respondent

Through: Mr. Anuj Aggarwal with mr. Yash
Upadhyay and Mr. Siddhant Dutt,
Advocates.

CORAM:
HON'BLE MR. JUSTICE MANOJ JAIN

ORDER

02.09.2024

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CM(M) 2805/2024 & CM APPL. 50243/2024 (for withdrawal)

1. Petitioner has filed an appeal i.e. Appeal No. 357/2024 which is pending consideration before the learned Appellate Tribunal, MCD at Tis Hazari Courts, New Delhi.
2. Admittedly, the petitioner had earlier also filed a petition which was registered as CM(M) 2805/2024 challenging order dated 31.05.2024 passed by the aforesaid learned Tribunal. The learned Tribunal has directed that the appeal would be taken up on 05.09.2024 and according to petitioner, because of the delay, in the interregnum, there was likelihood of the petition becoming infructuous and, therefore, he had filed the above said petition before this Court seeking direction to pre-pone the date and to take up the matter as early

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as possible.

3. Said petition was allowed and the petitioner was permitted to file an application seeking early hearing before the above said Tribunal.

4. However, since in the meanwhile, there was transfer of the presiding officer and new incumbent had not joined, the above said direction could not be complied with for the reasons beyond the control of the petitioner herein.

5. It has now been informed that the above said learned Tribunal is now functional and, therefore, it has been prayed that he may be permitted to withdraw the present petition with permission to pursue the above said appeal which is now listed before the learned Tribunal on 5th instant.

6. The application is, accordingly, allowed and the petition is disposed of with the direction to the petitioner to pursue the above said appeal before the learned Tribunal.

7. It is also clarified that while taking up this petition, this Court had expressed its disinclination to grant any stay with respect to the alleged construction. However, the above said observation would not come in the way of learned Tribunal and the learned Tribunal would be at liberty to hear the arguments, irrespective of the above said observation and to consider the appeal in accordance with law.

8. The next date stands cancelled.

9. Order *dasti* under the signatures of the Court Master.

MANOJ JAIN, J

SEPTEMBER 2, 2024/sw