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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ CM(M) 2959/2024 & CM APPL. 40579/2024 & CM APPL.
40686/2024
SH. SOHAN LAL ARORA THROUGH ITS SPA SANJEEV ARORA

.....Petitioner

Through: Mr. Shayuq Kumar, Advocate

versus

MUNICIPAL CORPORATION OF DELHI THROUGH ITS
COMMISSIONER AND ANR

.....Respondent

Through: Ms. Shilpa Ohri, Advocate for MCD

CORAM:
HON'BLE MR. JUSTICE MANOJ JAIN

ORDER

22.07.2024

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CM APPL. 40579/2024 (exemption)

Exemption allowed subject to all just exceptions.

CM(M) 2959/2024 & CM APPL. 40686/2024

1. Ms. Shilpa Ohri, learned counsel for MCD appears on advance notice and accepts notice. At the very outset, she states that present petition in the present form is not maintainable as petitioner has not bothered to avail the remedy as given to him by the Appellate Tribunal, MCD vide its order dated 16.03.2022.

2. It is noticed that appellant had earlier filed Appeal No. 161/AT/MCD/2011 before the Appellate Tribunal, MCD and feeling aggrieved by the order dated 02.08.2013 passed by the Appellate Tribunal,

CM(M) 2959/2024

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MCD, he filed an appeal before the Court of learned Principal District & Sessions Judge, West District.

3. Such appeal, registered as RCA 60805/2016, was disposed of on 16.12.2020 and while disposing of the appeal, the appellant was given liberty to approach the appropriate authorities for regularization and compounding of unauthorized construction, if permissible under law.

4. It seems that in view of the aforesaid directions, the appellant approached the concerned authority but his representation was rejected. However, it did not file any substantive petition challenging the aforesaid rejection and merely moved an application under Section 151 CPC in the same appeal filed earlier.

5. When the aforesaid application was considered by the Presiding Officer, Appellate Tribunal, MCD on 16.03.2022, such application was dismissed, as being not maintainable. However, at the same time, liberty was granted to appellant to assail the order of rejection dated 06.01.2021 in accordance with law.

6. Despite such liberty being granted to the petitioner, as admitted by learned counsel for petitioner herein, no appeal has so far been filed challenging the rejection order dated 06.01.2021.

7. Even in the present petition, the prayer is to modify the order dated 16.12.2020 passed by learned District Judge. Unfortunately, little does petitioner realize, such order is virtually in its favour as he was given permission to approach the concerned authority.

8. After hearing arguments, learned counsel for petitioner states that he may be permitted to withdraw the present petition with liberty to challenge the rejection order dated 06.01.2021 in accordance with law before the



appropriate authority.

9. Petition is accordingly dismissed as not pressed.

10. Needless to say, petitioner would always be at liberty to take appropriate course of action as permissible under law.

11. I may also clarify, before parting, that this Court has not expressed any opinion whatsoever with respect to the merits of the averments made in the present petition.

MANOJ JAIN, J

JULY 22, 2024/dr