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

+ **W.P.(C) 16479/2023 & CM APPL. 66352/2023**

ENDLESS MAINTENANCE SERVICES PVT. LTD.

.....Petitioner

Through: Mr. Badal Dayal and Ms. Deeksha
Sharma, Advs.

versus

MUNICIPAL CORPORATION OF DELHIRespondent

Through: Mr. Chetanya Singh and Mr. Chetan
Sharma, Advs. for MCD.

CORAM:

HON'BLE MR. JUSTICE PURUSHAINDRA KUMAR KAURAV

ORDER

% **20.08.2024**

11. This petition seeks for quashing of Public Notice dated 07.12.2018, and Letter cum Show Cause Notices dated 11.12.2018 and 18.12.2018, essentially issued by the respondents in deterring the petitioners against levying parking charges from visitors/public at large for its basement parking space inside a commercial building.

12. It remains undisputed that the property in question is being used for commercial purposes.

13. Learned counsel appearing for the petitioner submits that the controversy involved in the instant writ petition is squarely covered by the decision passed by this Court in the case of *Pacific Development Corpn. Ltd. v. SDMC*².

² 2023 SCC OnLine Del 7481



14. While taking this Court to various paragraphs of the said decision, learned counsel appearing for the petitioners points out that the Court in paragraph nos.36 & 37 has held as under:-

"36. It is clear that the control norms are restricted to the activities that are permitted for the purposes of controlled development. The control norms under MPD-2021 and the Building Byelaws are not concerned with the terms on which such activities are carried out. MCD certainly would not be concerned with the lease or license conditions of a retail shop in a District Court Complex or whether operation of a library in the said complex is remunerative. So long as the activities carried out in a District Court Complex fall within the scope of the permitted activities, the development control norms and the Building Byelaws would be duly complied with.

37. Undisputedly, parking is one of the permitted activities in the basement and the areas earmarked for the said purpose in Pacific Mall. So long as the said areas are used for parking of vehicles, it would not be open for MCD to claim that the area has been misused for the reason that the owner is charging fee for permitting parking in the said premises. There is no provision in the Building Byelaws which proscribe charging of fee or controls the terms on which buildings are used."

15. The Court in the concluding paragraph had allowed the aforesaid appeal and set aside the impugned order therein, whereby, the parking charges were directed not to be levied. It is also not disputed that the decision passed by the Division Bench of this Court was challenged before the Supreme Court in SLP(C) No. 9939/2024 and *vide* order dated 29.04.2024, the aforesaid SLP came to be dismissed.

16. Learned counsel appearing for respondent-MCD prays for further time to seek instructions from MCD. However, the Court, at this stage, is bound by the binding precedent of the Division Bench in the case of *Pacific Development (supra)*.



17. In view of the aforesaid and also in view of the similarity of the facts and situation, the Court sets aside the Public Notice dated 07.12.2018 and Letter cum Show cause notices dated 11.12.2018 and 18.12.2018.

18. Accordingly, the writ petition along with pending application stands disposed of.

PURUSHAINDR KUMAR KAURAV, J

AUGUST 20, 2024/p