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

+ **W.P.(C) 14193/2024**

PAARDARSHITA PUBLIC WELFARE FOUNDATION (NGO)

.....Petitioner

Through: Mr. Harkrishan Das Nijhawan,
President.

versus

MUNICIPAL CORPORATION OF DELHI AND ORS

.....Respondent

Through: Mr. Ajjay Arora with Mr. Kapil Dutta,
Adv for R-1.

Mr. Anubha Bhardwaj, Adv for R-4.

Mr. Sandeep Sethi, Sr. Adv. with Mr. Aman Gupta,
Mr. Akarsh Pandey, Adv for R-5-7.

Mr. G.S. Oberoi, ASC with Mr. J.S. Oberoi, Adv for
DDA.

CORAM:

HON'BLE MS. JUSTICE REKHA PALLI

HON'BLE MR. JUSTICE SAURABH BANERJEE

ORDER

05.11.2024

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1. The present petition under Article 226 of the Constitution of India styled as a Public Interest Litigation has been filed seeking the following reliefs:-

“(A) Issue a writ of mandamus or any other appropriate writ(s) or order(s) or direction(s) to Respondent No. 1 to immediately revoke the Layout Plan Dt 18-02-2022 issued to DCM Limited for their DCM Group Housing Residential Complex Situated at Kishan Ganj Delhi 110006 where illegal Amalgamation of



Seven Plots of Western Extn Area Plotted Development of Residential Area of 1100 sqm each amalgamated with the DCM Group Housing Residential Complex at Kishan Ganj Delhi & Change the Land Use from residential to Commercial for these Seven Plots to Three Commercial entities of Six & Ten Floors.

(B) Respondent No. 4 may direct to registered a regular case against the earing officials of the MCD, and Private Builder, Developer under Prevention of Corruption Act and booked all those who have given non permissible approvals of the revised layout plan to DCM Limited on 18-02-2022 for their DCM Group Housing Residential Complex situated at Kishan Ganj Delhi - 6.

(C) Issue a writ of mandamus or any other appropriate writ(s) or order(s) or direction(s) to Respondent No. 1 & 2 to thoroughly examine the all documents placed on record that how the Town Planning Department of MCD have manipulated the provisions and given enhancement of FAR 200 to 300 under Redevelopment & Comprehensive Scheme, though the DCM Group Housing Residential Complex does not fall under the both above provisions because project was not redeveloped at the time of enhancement.

(D) Pass such any other and further order(s) as this Hon'ble Court may deem fit and proper in the facts and Circumstances of the case and in the interest of Justice."

2. At the outset, learned counsel for the respondents, who appear on advance notice, take a preliminary objection regarding the maintainability of the writ petition by urging that the appellant has an equally efficacious statutory remedy under Section 347 B of the Delhi Municipal Corporation Act, 1957 (hereinafter referred to as the Act). It is urged by them that the aforesaid provision provides for a comprehensive appeal before the Appellate Tribunal against an order



according or disallowing sanction to a lay-out plan under Section 313 of the Act. In support of their plea, learned counsel for the respondents rely on a decision dated 27.07.2007 of a learned Single Judge in ***Lt.Col. Ashok Kashyap Retd. v. MCD & Anr.[2007 SCC OnLine Del 1019]***.

3. In the face of this objection taken by the respondents, the President of the petitioner/Organisation, Mr.Harkrishan Das Nijhawan, who appears in person, submits that the petitioner instead of pressing the present petition will approach the learned Appellate Tribunal. He, however, prays that it may be clarified that, in case, an appeal under Section 347 B of the Act is now preferred by the petitioner, the same will be considered on merits and shall not be rejected on the ground of delay.
4. Learned counsel for the respondents have no objection to this limited request.
5. In the light of the aforesaid, the writ petition is, accordingly, disposed of as not pressed with liberty to the appellant to approach the learned Appellate Tribunal by way of an appeal under Section 347B of the Act. Taking into account that the appellant had earlier also approached this Court by way of W.P.(C)5210/2024, which petition was disposed of as withdrawn with liberty to the petitioner to make a representation to the respondents, we direct that in case, the petitioner/Organisation prefers an appeal assailing the sanction order dated 18.02.2022, within a period of two weeks from today, the same will not be considered on merits and will not be rejected on the ground of delay. It is however made clear that this Court has not



expressed any opinion on the merits of the rival submissions of the parties.

6. Needless to state, in case, the petitioner is aggrieved by any orders passed by the learned Appellate Tribunal, it will be open for the petitioner to seek legal recourse as per law.

REKHA PALLI, J

SAURABH BANERJEE, J

NOVEMBER 5, 2024
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