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

+ **W.P.(C) 7943/2017**

**VASANT KUNJ COMMERCIAL COMPLEX ASSOCIATION**

.....Petitioner

Through: Ms.Meghna Mishra and Mr.Ankit  
Rajgarhia, Advs.

versus

**SOUTH DELHI MUNICIPAL CORPORATION** .....Respondent

Through: Mr.Manu Chaturvedi, SC for MCD  
and Ms.Devika Singh, Adv.

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+ **W.P.(C) 10378/2019 & CM APPL. 42796/2019**

**SANGAM THEATRES PVT. LTD.**

.....Petitioner

Through: Mr.Rajat Aneja and Mr.Amarjot  
Kaur, Advs.

versus

**SOUTH DELHI MUNICIPAL CORPORATION** .....Respondent

Through: Ms.Beenashaw Soni, SC for MCD  
with Ms.Mansi Jain, Adv.

**CORAM:**

**HON'BLE MR. JUSTICE PURUSHAINDRA KUMAR KAURAV**

**ORDER**

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**20.08.2024**

1. These petitions essentially relate to the parking charges being levied by the respondent with respect to different properties of the petitioners.
2. The properties in question are being used for commercial purpose and the said use is not disputed by the respondent-SDMC.
3. Learned counsel appearing for the petitioners submit that the controversy involved in the instant writ petitions is squarely covered by the



decision passed by this Court in the case of ***Pacific Development Corpn. Ltd. v. SDMC***<sup>1</sup>. While taking this Court to various paragraphs of the said decision, learned counsel appearing for the petitioners point 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."*

4. The Court, thus held that parking charges can be levied by the petitioners, and such levy would not amount to misuse of the building.

5. It also remains undisputed 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.

6. Learned counsel appearing for the respondent-SDMC, however, prays for further time to seek instructions.

7. Needless to state that on 08.07.2024, this Court adjourned the hearing with the following observations:-

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<sup>1</sup> 2023 SCC OnLine Del 7481



"1. Learned counsel for the petitioner points out that a similar controversy was listed before the Division Bench of this Court and upon passing of directions by the Division Bench, the respondent carried the same to the Supreme Court, however, it remained unsuccessful.

2. Learned counsel appearing on behalf of the respondent prays for some time to seek instructions as to whether the respondent intends to further contest the issue raised herein.

3. In view of the aforesaid, list these matters on 20.08.2024."

8. Since the respondent-SDMC is unable to take any formal decision or to apprise this Court as to what further recourse the respondent-SDMC intends to take, the Court, at this stage, is bound to follow the binding precedent of the Division Bench in the case of *Pacific (supra)*.

9. In view of the aforesaid and also bearing in mind the similarity of the facts and situation, the Court sets aside the impugned order bearing no.601/DC/SZ/17 dated 10.08.2017 and Public Notice dated 02.12.2015 in W.P.(C) 7943/2017, Public Notice dated 02.12.2015 and Show Cause Notice bearing No.D/93/DC/BLDG.-I/SZ/2019 dated 09.08.2019 in W.P.(C) 10378/2019.

10. Accordingly, the writ petitions along with pending applications stand disposed of.

**PURUSHAINDRA KUMAR KAURAV, J**

**AUGUST 20, 2024/MJ**