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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **CONT.CAS(C) 143/2023 CM APPL. 32802/2023**
SANTOSH MATHUR & ANR.

.....Petitioner

Through: Mr. B.S. Mathur, Mr. Rajat Mathur
and Ms. Areen Gulati, Advs.

versus

MUNICIPAL CORPORATION OF DELHI & ORSRespondent
Through: Mr. Tushar Sannu SC for MCD with
Ms. Paruni Sharma, Adv.

CORAM:
HON'BLE MR. JUSTICE ANISH DAYAL

ORDER
14.05.2025

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1. Petitioners are the owners of the property bearing no. *A-141 Neeti Bagh (Portion- B)* and applied for sanction of fresh building plans, with respect to their portion, with the MCD and deposited the fee as well.
2. On the MCD's rejection, petitioner preferred an appeal before the Appellate Tribunal and *vide* order dated 19th April 2022, it set aside the rejection and remanded the matter back with direction to consider the process for application in respect of that portion.
3. An appeal was preferred by the MCD before the Principal District and Sessions Judge who also dismissed the appeal by order dated 19th November 2022.
4. Since there was no compliance despite these orders, petitioner moved



this Contempt Petition on 3rd April 2025.

5. Previously on 3rd April 2025, the officer for the MCD, *Mr. Dev Kumar, Executive Engineer* stated that the process is underway for considering the application for sanction of the building plans.

6. There is some concern regarding the ‘no objection certificate’ which may be necessary as per current policy and signature of co-owners for the sanctioning of the building plan of *Portion -B*.

7. It is, however, noted that directions were passed by the Supreme Court in Civil Appeal No. 1161/2009 titled *Sharda Nath Vs Delhi Administration & Ors.* by decision dated 17th October 2019, stating as under:

“2. On the last date of hearing learned counsel for the Delhi Development Authority (DDA) stated that apparently there is no policy on sub-division but as and when court passed order, the same has been implemented. The illustration of such orders passed by the court were handed over by learned counsel for the appellant on the last date of hearing to the learned counsel for the DDA and that aspect has been verified i.e. LPA No. 429/2013 order dated 31st March, 2014 affirmed in SLP(Civil) No. 18783/2014, in the case of Madan Lal Gupta v. Municipal Corporation of Delhi, (2005) 83 DRJ 629 and in the case of Sunil Kohli v. Union of India, (2005) 83 DRJ 637.

3. The aforesaid thus shows that the Delhi High Court, well versed with the local legal situation, has been passing such orders which have been accepted by the DDA and we see no reason why the same principle should not apply in the present case.

4. We thus direct that the plot which vests with the two parties divided as per the area mentioned in order dated 26th September, 2019 but the FAR would be as available for the whole plot which would be divided in the same proportion in respect of the two portions of the plot.

5. It would be thus permissible for the two parties to



approach the South Delhi Municipal Corporation for sanction of plans in respect of their respective portions of the plot with FAR divided on the whole plot in proportion to the area vested with the two parties in the plot and to carry out construction accordingly. Each of the parties would be separately responsible for their portion of construction and violation, if any. Needless to say that for sanction of the plan 'No Objection Certificate' would not be required by any of the parties from the other party. On construction of the plot, the conveyance deed would be executed on payment of requisite charges separately for the two portions. This is so directed as without construction separate lease deeds would not be permissible as per norms. Needless to say that for all practical purposes the two parties would thus have separate liabilities and responsibilities in respect of the area vested therein."

(emphasis added)

8. This was noted by the Appellate Tribunal, MCD in *paragraphs 26 and 27* of its order dated 19th April 2022, which is extracted as under:



26. Similar issue came up for consideration before the Hon'ble Supreme Court of India in "*Sharda Nath Vs Delhi Administration & Ors*", Civil Appeal No. 1161 of 2009, date of decision |17.10.2019. The relevant portion of said judgment is reproduced herein below:-

"On the last date of hearing learned counsel for the Delhi Development Authority (DDA) stated that apparently there is no policy on sub-division but as and when court passed order, the same has been implemented. The illustration of such orders passed by the court were handed over by learned counsel for the appellant on the last date of hearing to the learned counsel for the DDA and that aspect has been verified i.e. LPA No.429/2013 order dated 31st March, 2014 affirmed in SLP(Civil)No.18783/2014, in the case of Madan Lal Gupta v. Municipal Corporation of Delhi & Ors. reported in 2005(83) DRJ 629 and in the case of Sunil Kohli & Ors. v. Union of India & Anr. reported in 2005 (83) DRJ 637. The aforesaid thus shows that the Delhi High Court, well versed with the local legal situation, has been passing such orders which have been accepted by the



DDA and we see so reason why the same principle should not apply in the present case.

We thus direct that the plot which vests with the two parties divided as per the area mentioned in order dated 26th September, 2019 but the FAR would be as available for the whole plot which would be divided in the same proportion in respect of the two portions of the plot.

It would be thus permissible for the two parties to approach the South Delhi Municipal Corporation for sanction of plans in respect of their respective portions of the plot with FAR divided on the whole plot in proportion to the area vested with the two parties in the plot and to carry out construction accordingly. Each of the parties would be separately responsible for their portion of construction and violation, if any. Needless to say that for sanction of the plan No Objection Certificate would not be required by any of the parties from the other party. On construction of the plot, the conveyance deed would be executed on payment of requisite charges separately for the two portions."

27. The above proposition laid down by the Hon'ble Delhi High Court and Hon'ble Supreme Court of India makes it absolutely clear that there



is no embargo for grant of sanction for building plan for a sub-divided portion of a big plot. However, the only requirement for such sanction is that the ground coverage and FAR would be available only as per the size of the big plot and not as per the size of the sub-divided plot.

9. In this view of the matter, MCD has no impediment in approving the sanction plan for *Portion B* without the requirement of any signatures of the co-owner for the other *Portion A*.
10. Accordingly, MCD is directed to comply with the order passed previously and keeping the above in mind.
11. Liberty is given to the petitioner to revive the petition, in case there is any continued infraction.
12. Compliance may be made within the next four weeks.
13. Petition is disposed of.
14. Order be uploaded on the website of this Court.

ANISH DAYAL, J

MAY 14, 2025/RK/na

Click here to check corrigendum, if any