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

% Judgment delivered on: 29th October, 2021

+ W.P.(C) 6388/2018& CM APPLN. 32447/2021

ARUN MAHAJAN

..... Petitioner

versus

SOUTH DELHI MUNICIPAL
CORPORATION AND ANR.

..... Respondents

Advocates who appeared in this case:

For the Petitioner : Mr. Saurabh Suman Sinha, Advocate.

For the Respondents :

Mr. Tushar Sannu, Standing Counsel,
SDMC with Ms. Ankita Bhadouriya, Mr.
Shubham Gupta and Ms. Shriya Sharma,
Advocates for SDMC/R-1 & 2 (through VC)
Mr. Vivek Narayan Sharma, Advocate for
R-3 & 4 (through VC)
Ms. Jaya Tomar, Advocate for R-5 to 7
(through VC)
Mr. K.K.Rai, Senior Advocate with Mr.
Sudhanshu Khandelwal, Advocate (through
VC)

CORAM:-

HON'BLE MR JUSTICE SANJEEV SACHDEVA

JUDGMENT

SANJEEV SACHDEVA, J.

1. Petitioner seeks a direction against the respondent-Corporation to demolish the unauthorized construction raised in plot bearing No.

C-199, Sarvodaya Enclave, New Delhi.

2. By order dated 01.06.2018, the petition was restricted to ascertaining as to whether the construction on the said plot was in conformity with the sanction plan or not.

3. On 11.10.2021, during arguments learned counsel for the petitioner stated that he would be satisfied in case the damage caused to the property of the petitioner is rectified and construction is brought in conformity with the building bye-laws.

4. Petitioner was directed to file an affidavit indicating as to the nature of rectification/repair work that would be required for the purposes of structural stability of the building of the petitioner.

5. Petitioner has filed an affidavit pursuant to the same.

6. Learned Senior Counsel appearing for the owners of the third floor contends that the extent of the repair and renovation work specified by the petitioner is unrealistic and in any event a civil suit has been filed by the petitioner with regard to the same.

7. Since there is a dispute regard to the extent of alleged damage and the alleged repair/renovation required for the same, this Court is declining to entertain the said dispute in these proceeding and parties would be relegated to resolving their disputes in appropriate civil

forum.

8. In so far as the aspect of unauthorized construction is concerned, the stand of the respondent-Corporation is that an online sanction of construction was obtained and thereafter an online completion certificate was obtained. However, on inspection it was noticed that there are deviations, excess coverage in the property contrary to the sanction plan and the completion plan. However, as per the inspection the same are within the compoundable limit. Status report further records that an application for regularization of the compoundable deviations have been filed which is under consideration. Further, Corporation has reported that on subsequent inspection it was found that there are certain deviation/excess coverages which are not compoundable and parties have been directed to remove the non-compoundable deviations.

9. Learned counsel appearing for the owners of the basement and ground floor to third floor submit that non-compoundable deviations have been removed.

10. Be that as it may, since the petition is restricted to the issue of unauthorized construction and as per the Corporation action has been taken against the unauthorized construction and an application seeking regularization is pending, this petition is disposed of with a direction

to the owners to jointly approach the Corporation for the purposes of regularization of the non-compoundable deviations. On such an application being filed the Corporation shall dispose of the same within 8 weeks in accordance with law.

11. It is clarified that the issue with regard to the damage to the property of the petitioner and the repair/rectification work required for the same is not being considered by the Court, said issue is left open.

12. Next date of 09.12.2021 is cancelled.

13. Petition is disposed of in the above terms.

SANJEEV SACHDEVA, J

OCTOBER 29, 2021

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