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(2021) 02 DEL CK 0245

In the Delhi High Court

Case No : Civil Writ Petition No. 2323 Of 2021, Civil Miscellaneous Application No. 6770, 6771 Of 2021

Aviral Bhatla — APPELLANT

Vs

South Delhi Municipal Corporation — RESPONDENT

Date of Decision : 23-02-2021

Acts Referred:

Citation : (2021) 02 DEL CK 0245

Hon'ble Judges : Sanjeev Sachdeva, J

Bench : Single Bench

Advocate : Hemant Malhotra, Sanjeev Sabharwal

Final Decision : Disposed Of

Judgement

Sanjeev Sachdeva, J

1. The hearing was conducted through video conferencing.

2. Petitioner impugns vacation notices dated 11.02.2020, 01.02.2021 and demolition order dated 04.12.2019.

3. Learned counsel for the petitioner submits that the action seems to have been taken based on some building plan dated 03.12.2010. He submits that

the property has been constructed as per sanctioned plan dated 17.05.2000.

4. Learned counsel further submits that the petitioner has already filed an appeal before the Appellate Tribunal MCD which was listed on 11.03.2020

when notice was issued to the Corporation, returnable for 11.03.2020 and as none appeared for the Corporation on 11.03.2020 and the matter was

adjourned to 24.03.2020 directing the Corporation to file a status report.

5. Learned counsel submits that thereafter on account of nationwide lockdown the appeal has not been taken up for hearing and today the Appellate

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Tribunal MCD is not functional.

6. Learned counsel for petitioner submits that the owner of the lower ground floor has already filed an appeal and there is a status quo order with

regard to his property by the Appellate Tribunal MCD.

7. Issue notice. Notice is accepted by learned counsel appearing for the respondent/Corporation. Learned counsel submits that property was inspected

and deviation contrary to sanction plan was found from basement upto the third floor.

8. In view of the fact that petitioner has already filed an appeal before the Appellate Tribunal MCD and the appeal has not been taken up for

consideration for the reasons stated afore-stated, this petition is disposed of with a direction that for a period of two weeks after the commencement

of the functioning of the Appellate Tribunal MCD or till the time the appeal/stay application of the petitioner is taken up for consideration by the

Appellate Tribunal MCD, whichever is earlier, no action of demolition shall be taken against the subject property.

9. The continuation of protection thereafter shall be subject to orders to be passed by the Appellate Tribunal MCD. It is clarified that the Appellate

Tribunal MCD would be free to decide the appeal/stay application without being influenced by anything stated here in.

10. Petition is disposed of in the above terms.

11. Copy of the Order be uploaded on the High Court website and be also forwarded to learned counsels through email.

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