(2002) 09 DEL CK 0151

In the Delhi High Court

Case No : C.W.P. No. 130 of 1985

Dr. M.L. Arora — APPELLANT

Vs

Delhi Development Authority and Others — RESPONDENT

Date of Decision : 12-09-2002

Acts Referred:

Constitution of India, 1950 — Article 226
Delhi Development Act, 1957 — Section 29(2), 57(1)

Citation : (2002) 101 DLT 152

Hon'ble Judges : Sanjay Kishan Kaul, J

Bench : Single Bench

Advocate : Siddharth Luthra and Uttara Babbar, for the Appellant; Sunil Malhotra, for the Respondent

Judgement

Sanjay Kishan Kaul, J.—The petitioner has sought quashing of the impugned notices dated 22.8.1979 as also the earlier notice dated 29.6.1976 issued by the respondent DDA taking action u/s 14 read with Section 29(2) of the DDA Act on account of violation of the provisions of the master plan by the petitioner since the petitioner was using the premises for running a nursing home. The premises are stated to be meant for residential use.

2. Learned Counsel for the petitioner states that the matter in controversy stand settled in view of the judgment of the Division Bench of this Court in DMA Nursing Home and Medical Establishment Forum Vs. Union of India and others, and it is open to the petitioner to run the nursing home. This position is not disputed by learned Counsel for respondent No. 1 -- DDA though the Counsel contends that in terms of para 23 of the said judgment, it has been held that u/s 57-1(f) of the Act, DDA is competent to make regulations with the prior approval of the Central Government to set down the terms and conditions on which such land use is permissible. Learned Counsel states that the Regulations have been framed and sent for approval to the Central Government.

3. Be that as it may, as and when the Regulations come into force, they will have

their effect. It would not in any manner effect the invalidity of the impugned notice.

4. In view of the aforesaid the impugned notices and proceedings there under are quashed and the writ petition stands disposed of leaving the parties to bear their own costs.

