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

+ W.P.(C) 5448/2023, CM APPL. 21318/2023 (stay) and
CM APPL. 21319/2023 (for dispensing)

O P FAIZI

..... Petitioner

Through: Mr. Anand Aggarwal and Mr. Ashish
Aggarwal, Advocates with petitioner in person
versus

NEW DELHI MUNICIPAL COUNCIL & ANR. Respondents

Through: Ms. Puja Kalra, Standing Counsel for
MCD

CORAM:

HON'BLE MR. JUSTICE MANOJ KUMAR OHRI

ORDER

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28.04.2023

1. By way of present petition filed under Article 226 of the Constitution of India, the petitioner seeks quashing of the order dated 17.04.2023 passed by the respondent wherein it has been stated that sealing action would be taken against the petitioner's property i.e. *B-29, Sagar Apartments, 6 Tilak Marg, New Delhi* (hereinafter referred to as the subject premises).

2. The Petitioner, who is present in person, submits that he is carrying out his professional activity as an Advocate from the subject premises for the last 25 years which are in the front block. He further submits that the impugned order has been passed in the teeth of the orders passed by the Supreme Court in W.P.(C) Nos. 325 and 326 of 2007 where, in fact, the Monitoring Committee in its Report No. 38 dated 21.07.2007 stated as under:-

"(e) the Monitoring Committee submits to the Hon'ble Supreme Court that as per provisions of MPD-2021, professional activity is permissible in residential areas in all



colonies in plotted development and group housing and in residential colonies in NDMC area excluding government housing, institutional and staff housing of public and private agencies and buildings and precincts listed by the Heritage conservation committee. As regards LBZ area, it is submitted that para 15.3.2(5) excludes LBZ for notifying mixed use streets/stretchers and not for professional and other activity. In other words, professional activity in basements in Sagar Apartments in LBZ is permissible.... "

3. It is further submitted that the aforesaid facts were communicated to the respondent by the petitioner vide his reply dated 12.01.2016 however, the same was not appreciated. It is also submitted that the entire building is fire compliant and Fire Fighting System is also installed in the subject premises. He has also referred to the letter dated 02.08.2022, where it has been stated that the "front block" in the Sagar Apartment does not fall under the purview of Rule 27(2) of DFS Rules, 2010.
4. Issue notice.
5. While disputing the aforesaid submissions made on behalf of the petitioner, Ms. Puja Kalra, learned ASC for the respondent accepts notice and seeks time to file a Counter Affidavit. Let the same be filed within four weeks with an advance copy to the petitioner who may file Rejoinder, if any, before the next date of hearing.
6. Renotify on 09.10.2023.
7. In the meantime, operation of the impugned order dated 17.04.2023 shall remain stayed till the next date of hearing.

MANOJ KUMAR OHRI, J

APRIL 28, 2023

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