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

+ **W.P.(C) 5947/2023**

PRAKASH GUPTA

..... Petitioner

Through: Mr. Ajay Kumar Vali & Mr. Bhaskar
Vali, Advocates

versus

NEW DELHI MUNICIPAL COUNCIL

..... Respondent

Through: Ms. Puja Kalra, Standing Counsel for
MCD

CORAM:

HON'BLE MR. JUSTICE MANOJ KUMAR OHRI

ORDER

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08.05.2023

CM APPL. 23351/2023 (Exemption)

1. Allowed, subject to all just exceptions.
2. Application stands disposed of.

W.P.(C) 5947/2023 and CM APPL. 23350/2023 (stay)

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-1, 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 a Chartered Accountant from the subject premises since 1978 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 were not appreciated. He has also referred to the letter dated 02.08.2022, where it has been stated that the front block 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 submits that as per clause 15.8 of MPD-2021, professional activity in basements in plotted development has been permitted subject to relevant provisions of Building Bye Laws, structural safety norms, fire safety clearance and payment of appropriate charges. She further submits that as per Clause 7.4 of Unified Building Bye Laws for Delhi, 2016, the



construction of the basement shall be allowed by authority/concerned local bodies in accordance with the land use and other provisions specified under the Master Plan for Delhi/Zonal Development Plan. She seeks some 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 thereto, if any, before the next date of hearing.

6. Re-notify 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

MAY 8, 2023

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