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20.03.2006

Present: Mr.Alok Kumar, Adv. for petitioner.
Mr.Arvind Sah, Adv. for respondent/NDMC.

+WP(C) No. 4093/2006

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1. Petitioner challenges the notice dated 20th February, 2006. The document has been wrongly typed as a show cause notice. The document in fact requires the petitioner not to continue with offending construction till issue of regularisation is decided.

2. A perusal of the writ petition shows that the petitioner admits having deviated from the sanctioned building plan. Case of the petitioner is that the deviations are compoundable and in respect thereof compounding has been sought.

3. A perusal of the impugned communication dated 20.2.2006 shows that NDMC is conscious of the fact that an application for regularisation is pending.

4. The communication only requires the petitioner not to continue with the construction at site till NDMC takes the necessary decision.

5. It may be true that the communication is not happily worded and the officer concerned has picked up the proforma of a show cause notice, but a meaningful reading of the communication impugned shows that the petitioner is

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being directed, not to continue with the construction till issue of compounding/rectification is decided.

6. Being based on a technical and a pedantic reading of the offending communication, a meaningful reading revealing as afore-noted, relief 'A' is declined.

7. Qua relief 'B', since issue of regularisation/compounding is pending since November, 2005, Sh. Arvind Sah, counsel for NDMC states that he would instruct his client to pass necessary orders on the application submitted by the petitioner seeking compounding/rectification within a period of four weeks from today.

8. Qua relief 'B', petition stands disposed of binding NDMC to the statement made by the counsel.

9. As regards Prayer 'C', communication sent by NDMC shows that no coercive action is contemplated. However, if the petitioner persists with the ongoing construction pending determination of rectification, I see no reason why NDMC should be denuded the power to prevent further construction which as of today is an unauthorised construction for the reason it does not confirm to the sanction obtained.

10. Prayer 'C' is accordingly declined. However, it is made clear that if the petitioner does not proceed ahead with any ongoing construction, no

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demolition would be effected till rectification application filed by the petitioner
is decided.

March 20, 2006
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P. N. Jog
PRADEEP NANDRAJOG, J.

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