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

+ **W.P.(C) 6033/2021 & C.M APPLs. 19090-091/2021**

AJAY GARG

..... Petitioner

Through Mr. Sunil Dalal, Sr. Adv. with
Mr. Devashish Bhaduria, Mr. Kawaljit
Singh and Mr. Jaskaran Singh, Advs.

versus

DELHI DEVELOPMENT AUTHORITY

..... Respondent

Through: Mr. Dhanesh Relan, Standing
Counsel with Mr. Paritosh Dhawan, Adv. for
DDA

CORAM:

HON'BLE MR. JUSTICE C. HARI SHANKAR

J U D G M E N T (O R A L)

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28.06.2021

(Video-Conferencing)

1. This petition has been taken up on mention, as listing was allowed in view of the urgency involved. With consent of parties the petition is being disposed of, in view of the nature of the controversy.

2. It is not necessary to dwell in detail on the facts. Suffice it to state that Suit No. 82888/2016 had been preferred by the petitioner before the learned Senior Civil Judge, Saket, challenging the proposal of the DDA to demolish the property of the petitioner located at D-66/3, Gautam Nagar, New Delhi. Said suit was dismissed by the learned Senior Civil Judge, *vide* order dated 8th April, 2021, under Order XVII Rule 3 of the Code of Civil Procedure, 1908.

3. The petitioner moved an application for restoration of the suit. However, Mr. Dalal submits that, as the presiding officer of the court which was dealing with the petitioner's suit is not sitting, the application for restoration has not been listed. Given the present scenario, in which the trial courts are functioning only on a virtual and restricted mode, he submits that despite his client's best efforts, it has not been possible to have the restoration application listed before the Court.

4. In the meanwhile, he submits that his client has been constrained to move the present petition before this Court as the respondents are taking action to demolish the aforesaid property. As such, the petition seeks a restraint on the respondents demolishing the property till final decision in SCJ 82888/2016. Mr. Dalal states, fairly, that though, *stricto sensu*, SCJ 82888/2016 does not survive, he seeks *status quo* regarding the aforesaid property till the decision on the restoration application filed by his client.

5. Mr. Dhanesh Relan, learned Standing Counsel for the DDA, submits that the property of the petitioner has already been demolished, though the said assertion is disputed by Mr. Sunil Dalal, on instructions.

6. In my opinion, the petitioner cannot be subjected to prejudice merely because of difficulty in having his application for restoration listed before the court, given the present strained circumstances.

7. As such, without entering into the disputes between the parties on merits, I am inclined to dispose of this petition in the following terms:

(i) The learned District Judge (South), Saket is requested to assign a suitable court to consider the application filed by the petitioner for restoration of SCJ 82888/2016 and have the matter listed before the said court on 7th July, 2021. Needless to say, learned Counsel for the parties would be intimated the details of the court before which the matter is to be listed by e-mail at their respective e-mail IDs. The matter would be taken up by video-conferencing on the said date.

(ii) The DDA shall maintain *status quo* as of now, as it exists at 05:30 p.m. on 28th June, 2021, till and subject to the decision of the appropriate court on the petitioner's application for restoration.

(iii) The learned trial court shall decide the petitioner's application for restoration on its own merits uninfluenced by any observations contained in this order. It is reiterated that this Court has not returned any observations on merits on the disputes between the parties.

8. The petition stands disposed of in the aforesaid terms.

9. Let a copy of this order be emailed to learned counsel for the

parties within 24 hours.

10. Mr. Relan undertakes to convey the gist of the order passed today to the DDA.

C. HARI SHANKAR, J.
(VACATION JUDGE)

JUNE 28, 2021

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