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

% **Date of Decision: 24th February, 2025**

+ **W.P.(C) 12118/2023 & CM APPL. 11037/2025**

ALOK RAI

.....Petitioner

Through: Mr. Romil Pathak, Advocate.

versus

DDA AND ANR

.....Respondent

Through: Mr. Tushar Sannu, Advocate for
DDA.

Mr. Dharmendra Kumar with Mr.
Shashi Bhushan, Advocates for R-2.

CORAM:

HON'BLE MR. JUSTICE MANOJ JAIN

J U D G M E N T (oral)

1. Petitioner seeks early hearing of the matter.
2. The matter is fixed for tomorrow and it is not comprehensible as to why this application has been moved at such a belated stage.
3. Be that as it may, since the learned counsel for respondents are also present and the learned counsel for petitioner has joined the proceedings through *video conferencing*, the date is pre-poned and the writ petition is taken up for hearing, today itself.
4. Petitioner is resident of Type-D, Block-4 of the Society namely, Nav Sansad Vihar, CGHS Ltd., New Delhi. He is occupying Flat No. 424.
5. The present matter relates to unauthorized *extension of balcony*.
6. DDA had issued a notice under Section 31 of *Delhi Development Act, 1957* on 11.08.2021 thereby asking to stop construction in respect of the above said flat.
7. Such order dated 11.08.2021 is under challenge.



8. As per the above said notice, DDA had carried out inspection in the above said Society and noticed some deviations in Blocks of Type-D Flats. Stop Construction Notice was issued with direction for rectification of such deviations and to bring it in compliance with the Sanctioned Building Plan.

9. It is noticed that some similarly situated other petitioners had filed writ petition i.e. W.P. (C) No. 9072/2021 and while disposing of the above said writ petition on 12.01.2022, this Court directed that such writ petition be treated as representation by DDA and DDA was directed to dispose of the same after hearing all the parties, including affected parties.

10. In the above said backdrop, DDA passed a *speaking order* on 06.05.2022 and as per such DDA order, the Management Committee of the Society was directed to strictly adhere to the revised sanction plan granted by DDA on 10.12.2020.

11. It seems that, as per revised sanction plan granted by DDA, some of the occupants of a particular Block had been granted permission to extend the *balconies*. However, as per the above said speaking order, it was also observed that, in case, the Management Committee of the Society was willing to revoke such revised sanction dated 10.09.2021, such request be sent to DDA along with the approval of General Body Meeting.

12. Learned counsel for respondent No.2 herein i.e. Management Committee of Society submits that the Management Committee of the Society has already revoked the revised sanction plan dated 10.12.2020 and, therefore, no occupant of any Block whatsoever, is now permitted to extend the *balcony*. It is also submitted that such request has already been forwarded to DDA on 13.11.2023 as per the approval of GBM.

13. Learned counsel for respondent No.2, therefore, submits that in view of



the above said revocation, no occupant can extend the *balcony*. He, however, also submits that there is no prohibition or embargo on any such occupant to bring the *balcony* to its original size and shape as per the initial sanctioned plan.

14. Learned counsel for respondent No.1-DDA also submits that they would have no objection if the *balcony* is constructed as per the original sanctioned plan.

15. During course of arguments, learned counsel for the petitioner submits that on account of Stop Work Notice, the petitioner is not in a position to do anything whatsoever. He submits that petitioner has no objection in bringing the *balcony* to its original shape and size as per the earlier sanctioned plan but because of the Stop Work Notice, he is not even permitted to raise such construction.

16. He, therefore, seeks liberty to the above said effect.

17. He also submits that he, in his own independent right, would also send a request to DDA permitting him to extend the *balcony* and that he would extend the *balcony* only as per the outcome of his such representation and not otherwise. He, however, reiterates that, in the interregnum, the petitioner may, at least, be permitted to construct the *balcony*, as per the original sanctioned plan.

18. Learned counsel for Management Committee of Society in question, has no objection to the above said proposal.

19. It seems that the above said solution would not cause any prejudice to DDA, either.

20. The present petition is, accordingly, disposed of with direction that the petitioner would be permitted the reconstruct the *balcony* as per the original



sanctioned plan and to that extent, the above said Stop Work Notice dated 11.08.2021 would not come in his way.

21. Needless to say, in case DDA comes across any deviation, during the above said proposed re-construction, DDA would be at liberty to take whatever permissible action, without there being any further directions from this Court.

22. The petitioner is also at liberty to file representation with DDA, in case, petitioner is of the view that he can legitimately extend the *balcony* irrespective of the decision taken by the Management Committee of the Society. As and when, any such representation is filed with DDA, DDA would consider the same and would try to dispose it of, as expeditiously as possible and in accordance with law. DDA would also be permitted to hear the representatives of the Management Society in question, before taking any final decision.

23. The next date stands cancelled.

24. Writ Petition stands disposed of in aforesaid terms. Needless to clarify, this Court has not given any observation with respect to legitimacy of the proposed construction.

(MANOJ JAIN)
JUDGE

FEBRUARY 24, 2025/sw/SS