Anirudh Kumar vs Municipal Corp. Of Delhi & Ors on 20 March, 2015

Equivalent citations: 2015 AIR SCW 2370, 2015 (7) SCC 779, AIR 2015 SC (SUPP) 1455, (2015) 1 WLC(SC)CVL 751, (2015) 4 ALLMR 458 (SC), (2015) 3 KCCR 332, (2015) 3 MAD LJ 79, (2015) 3 SCALE 698, (2015) 3 RECCIVR 653.2, 2015 (2) GLH NOC 1, 2015 (2) KLT SN 64 (SC)

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Bench: C.Nagappan, V. Gopala Gowda

REPORTABLE

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL No. 8284 of 2013

ANIRUDH KUMAR .....APPELLANT

Vs.

MUNICIPAL CORPORATION OF DELHI & ORS. ...RESPONDENTS

J U D G M E N T

V.GOPALA GOWDA, J.

This appeal by special leave arises out of the impugned judgment and order dated 16.01.2012 passed by the High Court of Delhi in LPA No. 857 of 2010 in and by which, the High Court, while dismissing the appeal held that this matter does not fall within its writ jurisdiction which requires determination by the High Court.

Brief facts which led to the filing of this appeal are as under:-

> 2. The appellant is residing on the second floor of D-1 Hauz Khas, New Delhi. Dr. Navin Dang and Dr. Manju Dang, the respondent Nos. 6 and 7 (hereinafter referred to as 'the respondent-owners') initially started a Pathological Lab in the name of 'Dr. Dang's Diagnostic Centre' in the year 1995 on the basement and ground floor of the concerned building and later on, in the year 2005-2006 the first floor of the premises was also purchased by them from its owner Mrs. Shanti Chatterjee whereby they

> expanded the activities of the Pathological Lab even to mezzanine floor and first floor by installing heavy medical equipments to make it fully equipped with the latest technology. When the Diagnostic Centre was started, it employed about 50 people and installed 25 Air Conditioners, two diesel generator sets of 25 KVA and 40 KVA each in the set-back area of the building along with kerosene oil tanks, gas cylinders and electric panels.

There was a major parking problem in and around the vicinity of the Diagnostic center since a large number of patients visited the centre every day.

3. The appellant made various complaints pertaining to the violation of the Master Plan to the concerned authorities', namely 1)Respondent No.1- Dy. Commissioner, Municipal Corporation of Delhi(for shot 'the MCD'),

2)Respondent No.2 - SHO of the area, 3)Respondent No.3 - Executive Engineer, Delhi Electricity Supply Undertaking. As no heed was given to the same by the aforesaid respondent, a writ petition No. 8808 of 2004 was filed by the appellant before the High Court of Delhi. During the pendency of the said writ petition, contrary to the averments made by the MCD before the High Court that prosecution had been initiated against the responsible persons under Sections 347/461 of the Delhi Development Act, 1957, the Regularisation Certificate was issued on 11.07.2006 to the respondent-owners by the MCD under Mixed Land Use for running the Pathological Lab on the ground floor and first floor of the concerned building. Aggrieved by the grant of Regularisation Certificate, the appellant withdrew the writ petition No.8808 of 2004 and a fresh writ petition No. 225 of 2008 was filed by the appellant before the High Court praying for quashing of the Regularisation Certificate wherein, the learned single Judge issued limited notice to the respondents with respect to Clauses 3 and 7 of the Regularisation Certificate. The Learned single Judge rejected the challenge to the Regularisation Certificate issued on 11.07.2006 as the same was issued by MCD under Clause 15.7.1 of the MPD 2021 approved by the Ministry of Urban Development, Government of India which reads thus:

> "15.7 OTHER ACTIVITY 15.7.1 Subject to the general conditions given in para 15.4 and additional conditions given in para 15.7.3, the following public and semi-public activities shall also be permitted in the residential plots abutting roads of minimum ROW prescribed in 15.7.2, whether or not the road is notified as Mixed Use street:
>
> (a) Pre-primary school (including nursery / Montessori school, creche.)
>
> (b) i. Nursing Home ii. Clinic, Dispensary, Pathology lab . and Diagnostic center.
>
> ....."

Further, the learned single Judge vide order dated 5.10.2010 refused to decide the violation under Clause 7 of the Regularisation Certificate on the ground that the petition is motivated by a private dispute than owing to any nuisance and hardship to any local resident as none of the other local

residents had approached the Court with any complaint pertaining to nuisance.

The first respondent - MCD confirmed that one-time parking charges of Rs.9,35,673/- in terms of the Regularisation Certificate had been paid by the respondent owners and that respondent-owners had also deposited Rs.8,39,916/- as conversions charges. The appellant challenged the order dated 11.01.2008 issuing limited notice in writ petition No.225 of 2008 passed by the learned single Judge by filing LPA No. 267 of 2009 before the Division Bench of the High Court and later on withdrew the same.

Aggrieved by the Order dated 5.10.2010 passed by learned single Judge, the appellant filed LPA No.857 of 2010 before the High Court praying for issuance of a writ of prohibition prohibiting the owners of the Pathological Lab from running the Diagnostic Centre in the concerned building, which was also dismissed by the High Court of Delhi vide its order dated 16.01.2012. Hence, this appeal by special leave is filed by the appellant.

Heard Mr. H.P. Rawal, learned senior counsel on behalf of the appellant and Mr. K.K. Venugopal, and Ms. Indu Malhotra, learned senior counsel on behalf of the respondent-owners and Mr. L. Nageshwar Rao, Additional Solicitor General and other learned counsel on behalf of the respondent.

The learned senior counsel on behalf of the appellant contended that the appellant made various complaints to the concerned authorities, namely, 1) Respondent No.1 - Dy. Commissioner, MCD regarding the commercial activity of the respondents-owners. 2) Respondent No.2 - SHO of the area for forceful installation of the Generator sets in the set-back area of the concerned property and blocking the underground water tanks and 3) Respondent No.3 - Executive Engineer, Delhi Electricity Supply Undertaking about the installation of the Generator sets.

It is contended by the learned senior counsel for the appellant that the authorities were called upon by the appellant to take some preventive action against the respondent-owners as they have not taken any license or permission from the MCD prior to setting up of the Diagnostic Centre in the residential area which is admitted by the concerned respondents themselves. According to the sanctioned building plan, the basement and the mezzanine floor could be used only for storage purpose and for no other purpose.

It is further contended by him that the MCD never sought permission of the High Court before issuing Regularisation Certificate in favour of the respondent-owners when W.P. No. 8808 of 2004 was pending before the High Court. It is further contended by him that the said Regularisation Certificate dated 11.7.2006 which was allegedly granted under the MPD 2021 which could not have retrospective effect but in fact, is prospective in nature. Further it has been contended by him that the MPD 2021 was notified by the Ministry of Urban Development Vide Notification No. S.O.141 and was brought into force on 07.02.2007. The said plan was only at its proposal stage, which fact was taken note of by the Division Bench of the High Court in its impugned judgment. Thus, it can be said that even before the MPD 2021 was brought into effect, the MCD went ahead with issuing Regularisation Certificate under the said plan in favour of the respondent- owners of the Pathological Lab.

Further, it is submitted by the learned senior counsel on behalf of the appellant that on 27.04.2006, the complaint made by the 18 residents of the area to the Commissioner, MCD about the hardship and nuisance faced by them were not taken note of or given heed to by the authorities. Again on 24.07.2009, 32 residents of Hauz Khas complained to the ACP (Traffic) about the great hardship they have been facing due to the continuous nuisance being committed by the said Diagnostic and Pathological Lab.

It is further contended by the learned senior counsel for the appellant that no person shall, without the previous consent of Delhi Pollution Control Committee (DPCC)-respondent No. 5 herein shall establish or take any steps to establish any industry, operation or process or any treatment and disposal system or any extension or addition thereto which is likely to discharge sewage or trade effluent into a stream or well or sewer or land. It is mandatory on the part of such establishment to first obtain consent from the DPCC for establishing or operating any industry, operation or process or any treatment and disposal system or any extension or addition thereto as envisaged under Section 25 of Water (Prevention and Control of Pollution) Act, 1986. Admittedly, no such consent was obtained or granted by the DPCC. The said fact has not been placed before the learned single Judge, Division Bench or this Court by any of the respondents. The DPCC has stated in its counter statement that the Pathological Lab is being run by the respondent-owners in the basement, ground floor, first floor and mezzanine floor of the concerned property. Thus, it is being run by them not only in violation of the Master Plan for Delhi 2001 but also MPD-2021.

It is further contended that the area illegally permitted by the MCD in pursuance of the alleged Regularisation Certificate dated 11.07.2006 mentions the area to be 222.25 sq meters and confines the activity of respondent-owners to the ground floor and the first floor only. However, the respondent-owners have been using the area much more in excess of the said permitted area by using the mezzanine floor of the building also. The said fact pleaded by the appellant is corroborated by the inspection report submitted by the DPCC in these proceedings. It is further contended that the respondent-owners have neither refuted nor pleaded anything contrary to the same, but on the other hand, for the first time before this Court, the learned senior counsel on behalf of the respondent-owners have stated that the mezzanine floor does not exist in the building. This plea urged by the respondent-owners is not only contrary to the pleadings before the courts below but the same is made with a mala fide intention and is an incorrect statement of fact and therefore, requested this Court to reject the said contention.

Further, it is contended by the learned senior counsel that the appellant has been complaining about the set-back area of the building being illegally covered by the respondent-owners contrary to the building bye- laws and for the first time before this Court, a new plea has been taken by the respondent-owners that they have kept the generator sets in the set- back area of the building allegedly because they have not been allowed to install it on the terrace of the concerned building. This alleged fact is contrary to the facts and the title deeds of the property. The terrace in the building was purchased by the appellant separately and he is the exclusive owner of the terrace.

It is further contended that the appellant is living on the second floor of the building and enough damage has been done to the same and cracks have occurred therein due to the installation of heavy

equipments including generator sets. The effect of such installation of such heavy equipments like generator sets on the terrace is not only dangerous but would also make it impossible for the appellant as well as the surrounding neighboring residents to live peacefully.

It is further urged by the learned senior counsel for the appellant that the impugned order is liable to be set aside as the dispute between the parties is not a private dispute and respondent Nos. 1 to 5 are required in law to take appropriate legal action against the respondent-owners to stop the illegal and unauthorized activities in the concerned building. These activities of running the Pathological Lab are also contrary to Clause 7 of the conditions mentioned in the Regularisation Certificate dated 11.07.2006 issued by the MCD to the respondent-owners for running of the Pathological Lab in the concerned building.

On the other hand, the learned senior counsel on behalf of the respondents have alleged that the appellant himself has not approached this Court with clean hands and has deliberately suppressed material information and documents with a view to prejudice this Court against the answering respondents and has raised unauthorized construction on the roof above the second floor of the concerned building. It is alleged by them that this appeal filed by the appellant is motivated by personal animus against the answering respondents. It is further contented that the contentions urged by the appellant both in the writ petition and in this appeal do not raise any question of law or question of public importance, therefore, the same does not call for interference of this Court.

It is further contended by the learned senior counsel for the respondent- owners that the Delhi Master Plan 2001 classifies a Clinical Laboratory under Section 2 - Development Code, Clause 8 (3) Sl. No. 077 as an activity permissible in a residential area. A clinical laboratory being a utility service is permitted to be run in both the residential and commercial areas and this facility must be easily accessible and in close proximity to people in residential zones.

Further, it is submitted by them that the MPD-2021 which came into force on 07.02.2007, provides for Mixed Use Regulations. Regulation 15.7.2 reads thus:

> "15.7.2 The minimum ROW of a street or stretch of road on which other activities are permissible is as follows:
>
> In A & B Colonies*: 18m ROW in regular plotted development; 1-3. Added vide S.O. 2034(E) dated 12-08-2008 184 Notes .....
>
> In C & D colonies: 18 m ROW in regular residential plotted development ....."

Further, it is submitted that as Hauz Khas area has been classified as a Class "B" Colony as per MPD 2021, the aforesaid activities of the respondent-owners in the residential building are permissible in a Class "B" Colony, having an 18 m ROW in regular plotted development. It is further contended that it is relevant to mention that there is no restriction with respect to the area that can be used for a Nursing Home, Clinic, Dispensary, Pathological Lab and Diagnostic Centre covered by Regulation 15.7.1 of the MPD 2021.

It is further submitted by the respondent-owners in their written submissions that they have installed generator sets for running their Pathological Lab in the rear set back area of the concerned building, since the appellant did not permit access to the roof of the second floor for utilities even though they have a right of access to the terrace to repair and clean the overhead tanks, to install TV antenna etc., under their registered sale deed of the building. Further, it is contended by the learned senior counsel for the respondent-owners of the Pathological Lab that they have not constructed any shed in the rear set-back area and generators have been kept in the sound-proof enclosures and the noise generated from them is within the permissible limits and therefore, there is no air and sound pollution in the area.

Further, it is contended by the learned senior counsel for the respondent- owners that respondent No. 5, DPCC has given the permission to install the aforesaid generators in the building after conducting an inspection of the same and certified that the air quality standards are being complied with by them. Further, as advised by DPCC, the respondent-owners have installed stacks above the height of the building but the appellant broke the stack on several occasions, and thereby prevented the respondent-owners from complying with the said directions. Ultimately, the respondent-owners were constrained to construct a steel structure which is independent of the building, so as to ensure that the exhaust pipe of the generators is raised by 1.5. meters above the height of the building. It is further contended that the respondent-owners have only one gas-cylinder connection in the Pathological Lab, which is used for making tea, coffee etc. for the Doctors and staff who are working in the lab, which cannot be termed as hazardous material as it is only used for domestic purposes.

We have heard the learned senior counsel for both the parties and after considering the rival legal contentions urged by them, we have to answer each one of the rival legal contentions in seriatim by assigning the following reasons.

It is pertinent to note that during the pendency of this appeal, the parties have tried to reach an amicable settlement, however the same remained unsuccessful. Be as that may, this nature of ligation cannot be allowed to be settled between the parties as it involves public interest and violation of rule of law.

The writ petition was dismissed by the learned single Judge and the same was affirmed by the Division Bench in its impugned judgment and order on the question that the proceedings initiated by the appellant are not in the nature of public interest but is only private interest litigation and therefore, the High Court had held that the writ does not lie against the respondents. The said reasoning of the Division Bench in the impugned judgment is not acceptable to us based on the pleadings and documentary evidence produced before us as it is clear that several representations have been made by the affected neighbours of the building at different stages with regard to the nuisance created by the Pathological Lab right from 29.12.1995 till date including the complaint made by the 32 residents of Hauz Khas to the Assistant Commissioner of Police (Traffic) on 27.07.2009. The running of the Pathological Lab in the building by the respondent-owners amount to violation of the rule of law and affects the public interest, therefore, it is public interest litigation even though the appellant herein is a resident of the second floor of the concerned building and simultaneously he has been fighting for the cause of all the local residents. This legal principle has

been laid down by the Constitution Bench of this Court in the case of S. P. Gupta and Others v. President of India and Others[1], which legal principle has been reiterated recently by this Court in the case of State Of Uttaranchal v. Balwant Singh Chaufal[2] after adverting to the entire case law on the question of public interest litigation, the relevant paragraph from the decision of the S. P. Gupta case (supra) is extracted hereunder:-

> "17. It may therefore now be taken as well established that where a legal wrong or a legal injury is caused to a person or to a determinate class of persons by reason of violation of any constitutional or legal right or any burden is imposed in contravention of any constitutional or legal provision or without authority of law or any such legal wrong or legal injury or illegal burden is threatened and such person or determinate class of persons is by reason of poverty, helplessness or disability or socially or economically disadvantaged position, unable to approach the court for relief, any member of the public can maintain an application for an appropriate direction, order or writ in the High Court under Article 226 and in case of breach of any fundamental right of such person or determinate class of persons, in this Court under Article 32 seeking judicial redress for the legal wrong or injury caused to such person or determinate class of persons. .....The court has to innovate new methods and devise new strategies for the purpose of providing access to justice to large masses of people who are denied their basic human rights and to whom freedom and liberty have no meaning.
>
> The only way in which this can be done is by entertaining writ petitions and even letters from public-spirited individuals seeking judicial redress for the benefit of persons who have suffered a legal wrong or a legal injury or whose constitutional or legal right has been violated but who by reason of their poverty or socially or economically disadvantaged position are unable to approach the court for [pic]relief. .... We may also point out that as a matter of prudence and not as a rule of law, the court may confine this strategic exercise of jurisdiction to cases where legal wrong or legal injury is caused to a determinate class or group of persons or the constitutional or legal right of such determinate class or group of persons is violated and as far as possible, not entertain cases of individual wrong or injury at the instance of a third party, where there is an effective legal-aid organisation which can take care of such cases."

The relevant para from Balwant Singh's case is extracted hereunder

33. The High Courts followed this Court and exercised similar jurisdiction under Article 226 of the Constitution. The Courts expanded the meaning of right to life and liberty guaranteed under Article 21 of the Constitution. The rule of locus standi was diluted and the traditional meaning of "aggrieved person" was broadened to provide access to justice to a very large section of the society which was otherwise not getting any benefit from the judicial system. We would like to term this as the first phase or the golden era of the public interest litigation. We would briefly deal with important cases decided by this Court in the first phase after broadening the definition of "aggrieved person".

34.This Court in Akhil Bharatiya Soshit Karamchari Sangh (Railway) v. Union of India, at AIR p. 317, held that:

> "62. ... Our current processual jurisprudence is not of individualistic Anglo-Indian mould. It is broad-based and people-oriented, and envisions access to justice through 'class actions', 'public interest litigation' and 'representative proceedings'. Indeed, little Indians in large numbers seeking remedies in courts through collective proceedings, instead of being driven to an expensive plurality of litigations, is an affirmation of participative justice in our democracy. We have no hesitation in holding that the narrow concept of 'cause of action' and 'person aggrieved' and individual litigation is becoming obsolescent in some jurisdictions."

35. In Bandhua Mukti Morcha v. Union of India this Court entertained a petition even of an unregistered association espousing the cause of over downtrodden or its members observing that the cause of "little Indians" can be espoused by any person having no interest in the matter. In the said case, [pic]this Court further held that where a public interest litigation alleging that certain workmen are living in bondage and under inhuman conditions is initiated, it is not expected of the Government that it should raise a preliminary objection that no fundamental rights of the petitioners or the workmen on whose behalf the petition has been filed, have been infringed. On the contrary, the Government should welcome an inquiry by the Court, so that if it is found that there are in fact bonded labourers or even if the workers are not bonded in the strict sense of the term as defined in the Bonded Labour System (Abolition) Act, 1976 but they are made to provide forced labour or are consigned to a life of utter deprivation and degradation, such a situation can be set right by the Government.

36. Public interest litigation is not in the nature of adversarial litigation but it is a challenge and an opportunity to the Government and its officers to make basic human rights meaningful to the deprived and vulnerable sections of the community and to assure them social and economic justice which is the signature tune of our Constitution. The Government and its officers must welcome public interest litigation because it would provide them an occasion to examine whether the poor and the downtrodden are getting their social and economic entitlements or whether they are continuing to remain victims of deception and exploitation at the hands of strong and powerful sections of the community and whether social and economic justice has become a meaningful reality for them or it has remained merely a teasing illusion and a promise of unreality, so that in case the complaint in the public interest litigation is found to be true, they can in discharge of their constitutional obligation root out exploitation and injustice and ensure to the weaker sections their rights and entitlements.

37. In Fertilizer Corpn. Kamagar Union v. Union of India this Court observed that:

> "43. Public interest litigation is part of the process of participative justice and 'standing' in civil litigation of that pattern must have liberal reception at the judicial doorsteps."

38. In Ramsharan Autyanuprasi v. Union of India this Court observed that the public interest litigation is for making basic human rights meaningful to the deprived and vulnerable sections of the community and to assure them social, economic and political justice.

....

41. The development of public interest litigation has been an extremely significant development in the history of the Indian jurisprudence. The decisions of the Supreme Court in the 1970s loosened the strict locus standi requirements to permit filing of petitions on behalf of marginalised and deprived sections of the society by public spirited individuals, institutions and/or bodies. The higher courts exercised wide powers given to them under Articles 32 and 226 of the Constitution. The sort of remedies sought from the Courts in the public interest litigation goes beyond award of remedies to the affected individuals and groups. In suitable cases, the Courts have also given guidelines and directions. The Courts have monitored implementation of legislation and even formulated guidelines in the absence of legislation. If the cases of the decades of 70s and 80s are analysed, most of the public interest litigation cases which were entertained by the courts are pertaining to enforcement of fundamental rights of marginalised and deprived sections of the society. This can be termed as the first phase of the public interest litigation in India."

25. Apart from this, reliance has been placed by the learned senior counsel on behalf of the appellant upon the judgment of this Court to maintain the Writ Petition as a PIL as the appellant is a person who is also empowered to file a petition under Article 226 of the Constitution of India challenging the validity of the Regularisation Certificate as per the decision of this Court in Gadde Venkateswara Rao v. State of A.P.[3], wherein it was held thus:-

> "8. The first question is whether the appellant had locus standi to file a petition in the High Court under Article 226 of the Constitution. This Court in Calcutta Gas Company (Proprietary) Ltd. v. State of West Bengal dealing with the question of locus standi of the appellant in that case to file a petition under Article 226 of the Constitution in the High Court, observed:
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> "Article 226 confers a very wide power on the High Court to issue directions and writs of the nature mentioned therein for the enforcement of any of the rights conferred by Part III or for any other purpose. It is, therefore, clear that persons other than those claiming fundamental right can also approach the court seeking a relief thereunder. The Article in terms does not describe the classes of persons entitled to apply thereunder; but it is implicit in the exercise of the extraordinary jurisdiction that the relief asked for must be one to enforce a legal right .... The right that can be enforced under Article 226 also shall ordinarily be the personal or individual right of the petitioner himself, though in the case of some of the writs like habeas corpus or quo warranto this rule may have to be relaxed or modified."

..... This Court held in the decision cited supra that '"ordinarily" the petitioner who seeks to file an application under Article 226 of the Constitution should be one who has a personal or individual

right in the subject-matter of the petition. A personal right need not be in respect of a proprietary interest: it can also relate to an interest of a trustee. That apart, in exceptional cases, as the expression "ordinarily" indicates, a person who has been prejudicially affected by an act or omission of an authority can file a writ even though he has no proprietary or even fiduciary interest in the subject-matter thereof. The appellant has certainly been prejudiced by the said order. The petition under Article 226 of the Constitution at his instance is, therefore, maintainable."

In view of the above mentioned decisions of this Court, we hold that the findings and reasons recorded by both the learned single Judge and the Division Bench of the High Court that it is not public interest litigation is contrary to the law laid down by the Constitution Bench of this Court and other decisions referred to supra. The said reasoning is liable to be set aside, accordingly it is set aside.

Further, notice was issued by the High Court for limited purpose to examine the correctness of Clauses 3 and 7 of the Regularisation Certificate issued to the respondent-owners by the MCD in exercise of its authority to grant the same. However, the MCD has ignored the relevant aspects of the case of deviation of the then relevant Delhi Master Plan and unauthorised use of the basement, ground floor, mezzanine floor and the first floor of the concerned building. The said act of the MCD is contrary to the legal principles laid down by this Court in the case of Priyanka Estate International (P) Ltd. v. State of Assam[4], wherein it was held thus:-

> "56. Even though on earlier occasions also, under similar circumstances, there have been judgments of this Court which should have been a pointer to all the builders that raising unauthorised construction never pays and is [pic]against the interest of society at large, but, no heed has been given to it by the builders. Rules, regulations and bye-laws are made by Corporations or by Development Authorities, taking in view the larger public interest of the society and it is a bounden duty of the citizens to obey and follow such rules which are made for their benefit. If unauthorised constructions are allowed to stand or given a seal of approval by court then it is bound to affect the public at large. An individual has a right, including a fundamental right, within a reasonable limit, it inroads the public rights leading to public inconvenience, therefore, it is to be curtailed to that extent."

In addition to this, the appellant being a resident of the second floor of the building, questioned the legality and validity of the Regularisation Certificate issued by the MCD under Clause 15.7.1 of the MPD-2021 approved by the Ministry of Urban Development, Government of India. In the second Writ Petition (c) 225 of 2008 filed by the appellant, the challenge was on the basis of the said certificate, for which the learned single Judge at the time of preliminary hearing of the said petition, has issued limited notice dated 11.1.2008 to the respondents with respect to Clause 3 of the Regularisation Certificate dealing with parking arrangements which would affect the neihbouring local residents of the colony and Clause 7 of the Regularisation Certificate which states that the respondent-owners shall ensure no nuisance or hardship would be created for the local residents in running the Nursing Home. However, contrary to this, they have been running a large Pathological Lab in the name of Nursing Home, named Dr. Dang's Diagnostic Centre in the basement, ground

floor, mezzanine floor and the first floor of the building. The respondent-owners have refuted the same.

According to the learned senior counsel on behalf of the respondent- owners of the Pathological Lab, the mezzanine floor does not exist in the building. This plea is contrary to the pleadings made before the courts below and even before this Court and the same is made with a mala fide intention to conceal unauthorized construction and contravention of the building bye-laws. Therefore, the said plea cannot be accepted by us.

Further, we are satisfied that the issuance of the said Regularisation Certificate in favour of the respondent-owners of the Pathological Lab is in contravention of the building bye-laws and MPD-2021 referred to supra. The relevant paras from the MPD 2021 are extracted hereunder for better appreciation of our conclusions on the contentious points raised by the learned senior counsel on behalf of the parties:-

> "15.1 GOVERNING PRINCIPLES FOR MIXED USE i. Mixed Use means the provision for non-residential activity in residential premises.
>
> 15.2 MIXED USE IN RESIDENTIAL AREAS 15.2.1. DIFFERENTIATED APPROACH
>
> i) The need for differentiated approach to mixed use policy arises from the fact that Delhi, being the country's capital and an important centre of economic activity has a large diversity in the typology of residential areas. Apart from the planned residential colonies built as part of Lutyens' Delhi as well as through the process of planned development undertaken by the Delhi Development Authority, there are authorized residential areas in the Walled City, Special areas and urban villages.

Other planned areas include resettlement colonies and pre-Delhi Development Act colonies, including post-partition rehabilitation colonies and pre-1962 residential colonies as per list given in Annexure I. There are also regularized-unauthorized colonies; unauthorized colonies as well as slums and jhuggi jhompri clusters in various parts of Delhi.

...

iii) Hence, it is proposed to follow a differentiated approach in the application of the mixed-use policy in Delhi. The differentiated approach would be based on categorization of colonies from A to G as adopted by MCD for unit area method of property tax assessment as applicable on 7.9.2006. Any change in the categorization of these colonies shall not be made applicable for the purpose of this chapter without prior approval of Central Government.

.....

15.3.2 The extent of Mixed Use permissible in various categories of colonies is further clarified as follows:

1. In colonies falling in categories A and B No commercial activities will be permissible in the colonies of A & B categories except the following:

.....

"Other activity" restricted to guest houses, Nursing Homes and pre-primary schools, as defined in para 15.7.1, subject to conditions contained in para 15.7, in plots abutting roads of minimum 18m ROW in regular plotted development, since these activities are in the nature of 'Public and Semi-

Public' facilities. New banks and fitness centres, wellness centres and NGOs will not be permissible. Banks which existed as on 7.9.2006, fitness centres, wellness centres and NGOs which existed as on 7.2.2007, (as defined in para 15.7.1), in accordance with notifications issued in this regard from time to time, and are on plots abutting roads of minimum 18m ROW, on the date of notification, shall however, continue.] 15.4 GENERAL TERMS AND CONDITIONS GOVERNING MIXED USE .....

.....

(ii) Where there are more than one dwelling units in a residential plot, each of the dwelling units will be permitted to have only type of Mixed Use activity (either retail shop as per para 15.6. or professional activity or any one of the other activities listed in para 15.7).

15.5 PERMISSIBLE AND NON-PERMISSIBLE USES Any trade or activity involving any kind of obnoxious, hazardous, inflammable, non-compatible and polluting substance or process shall not be permitted.

15.7 OTHER ACTIVITY 15.7.1 Subject to the general conditions given in para 15.4 and additional conditions given in para 15.7.3, the following public and semi-public activities shall also be permitted in the residential plots abutting roads of minimum ROW prescribed in 15.7.2, whether or not the road is notified as Mixed Use street:

(a) Pre-primary school (including nursery / Montessori school, creche.)

(b) i. Nursing Home ii. Clinic, Dispensary, Pathology lab and Diagnostic center.

15.7.2 The minimum ROW of a street or stretch of road on which the above- mentioned other activities are permissible is as follows:

In A & B Colonies: 18m ROW in regular plotted development;

.....

iii. ....pathology labs shall be permissible: on minimum plot size of 100 sqm in regular plotted development on 13.5 m ROW in C & D colonies and 9 m ROW in E, F & G

colonies. However, the minimum plot size shall be 50 sqm for clinics, dispensaries and pathology labs running in these colonies and also in E, F and G category colonies. In Walled City, Walled city extension, villages and unauthorized-regularized colonies, conditions of plot size and minimum ROW shall not be applicable.

…. (emphasis supplied by this Court) Now, we have to examine whether this residential property comes under the Mixed Use or not. Clause 15.2.1 (i) referred to supra clearly states in the Master Plan issued by the Planning Authority under the heading Mixed Use in the area in question to meet the growing demand of commercial activities and overcome the shortfall of commercial space. A liberalised provision of Mixed Use in the residential areas has been adopted adhering to the requisites of the environment while achieving better synergy between work- place, residence and transportation.

Further, the report of the DPCC clearly states that the Regularisation Certificate was granted for running a Nursing Home whereas a Pathological Lab in the name of Dr. Dang Diagnostic Centre has been functioning on the basement, ground floor of the building since the year 1995. In view of the Clause 15.4(ii) of the MPD-2021, the general terms and conditions governing Mixed Use provides that where there are more than one dwelling units in a residential plot, each of the dwelling units will be permitted to have only type of Mixed Use activity (either retail shop as per Clause 15.5 or professional activity or any one of the other activities as provided in Clause 15.7). In the residential plot in question there are more than two residential flats and once again such kind of use of premises in the dwelling unit will be permitted to have only one kind of activity. Further, we have examined the 'Major Highlights of the Master Plan of Delhi 2021' as penned by the Ministry of Urban Development, wherein, the focal points of the Master Plan have been discussed. The relevant point (n) from the above said Highlights is extracted hereunder:-

" (n) Health Infrastructure:

? Health facilities proposed to achieve norms of 5 beds / 1000 population ? Enhancement of FAR for hospitals and other health facilities. ? Nursing Homes, clinics etc. also allowed under relaxed Mixed Use Norms."

Further, it is necessary for us to examine Clause 15.8 of MPD 2021 which states thus:

"15.8 PROFESSIONAL ACTIVITY ….

In the case of plotted development with single dwelling unit, professional activity shall be permissible on any one floor only, but restricted to less than 50% of the permissible or sanctioned FAR whichever is less on that plot.

> [Professional activity in basements is permissible in plotted development, subject to relevant provisions of Building Bye-Laws, structural safety norms and fire safety clearance. In case, the use of basement for professional activity leads to exceeding the permissible FAR on the plot, such FAR in excess shall be used subject to payment of appropriate charges prescribed with the approval of Government.]"

(Emphasis laid down by this Court) From a careful reading of the above provision emphasised by us, it is clear that if the use of basement for professional activity exceeds the FAR, then such excess usage shall be subject to payment of appropriate charges prescribed with the approval of the Government of India. Neither the MCD nor the respondent-owners in their pleadings have brought this fact to the notice of this Court that they have complied with the above said provision by paying the appropriate charges for usage of the basement when the same is exceeding the permissible FAR on the plot of the building. From a careful reading of the aforesaid extracted portions of the Master Plan 2021 and upon which reliance has been placed by Mr. H.P.Rawal, learned senior counsel on behalf of appellant and Mr. K. K. Venugopal and Ms. Indu Malhotra, learned senior counsel on behalf of the respondents, we have to hold that the grant of Regularisation Certificate under Mixed Use Regulations of the MPD 2021 giving retrospective effect enabling respondent- owners to run a Pathological Lab in the guise of a Nursing Home in the residential area falling in categories "A" and "B" is not sustainable in law and liable to be set aside. Further, in view of the facts of the case on hand, the relevant provisions of MPD 2021 and the evidence on record, we have to hold that the writ appeal filed by the appellant has been wrongly dismissed by the Division Bench of the High Court without examining the legality and validity of the issuance of the Regularisation Certificate on 11.06.2007 allegedly under the MPD 2021 which was still at the proposal stage at that time and the said Plan came into effect only on 07.02.2007, enabling the respondent-owners to use the premises for commercial activity which in our view is prohibited in the residential plot of the building under the various Clauses of the Master Plan 2021 extracted above.

Further, the said Regularisation Certificate granted by the MCD is contradictory to the Mixed Use Regulations under the Delhi Master Plan 2001 as well which was relevant and in force at the time of granting of the Regularisation Certificate to the respondent-owners. The provision for Mixed Use under the MPD 2001 clearly states that the area/street for Mixed Use activity should be identified by conducting a study of the impact on the traffic in that area/street in which such Mixed Use activity is likely to take place and also evaluate the environmental needs and impact on municipal services of the area if Mixed Use is allowed. In the present case, no report or document of evaluation or study conducted by the MCD has been brought to the notice of the courts below or this Court to establish and prove that the concerned building is an appropriate premises to allow a non-residential or Mixed Use activity in residential premises. The Mixed Use Regulations under MPD 2001 further states that if after the above said evaluation and study it is found that the Mixed Use activity in the street/area is feasible, then such activity shall be allowed only on the ground floor of the premises to the extent of 25% of the area or 50sqm, whichever is less and that such establishment can be run by the resident of the dwelling unit only. In the present case, the Pathological Lab is being run on the basement, ground floor, first floor and the mezzanine floor and the respondent-owners of the Pathological Lab are not the residents of the concerned building, thus it is a clear violation of the provisions for Mixed Use of residential premises under the Master Plan 2001. The Master Plan 2001

also provides that activities such as running of a nursing home should not be allowed, whereas in the Regularisation Certificate, it is clearly stated that permission is being granted for running of a nursing home. The relevant paras of the said plan are extracted hereunder:

> "CLAUSE 10 MIXED USE REGULATIONS:
>
> (NON-RESIDENTIAL ACTIVITY ON RESIDENTIAL PREMISES) Mixed Use here, essentially means permission of non-residential activity on residential plot or residential flat. Specific provision for Mixed Use have been given for walled city, Karol Bagh and other parts of the Special Area in the relevant sections in the Master Plan. At the time of preparation of Zonal (divisional) plans, in residential plotted development in areas other than the Walled City and Karol Bagh and other urban renewal areas, streets of Mixed Use activity shall be identified by (i) conducting a traffic study in each individual case to see whether after permission of Mixed Use activity, there will be no adverse effect in traffic circulation in that area/street and it would be built to take additional traffic which is likely to be generated because of the Mixed Use. (ii)by evaluation its impact on the municipal services and environmental needs of the area.
>
> As a part of the traffic study, the traffic management solutions like traffic free pedestrianised streets/areas and on way traffic etc. could also be considered for introduction as a solution to the traffic/parking problem of the area.
>
> In case it is found feasible to permit Mixed Use in a street/area, the same would be subject to the following conditions: The commercial activity allowed shall be only on the ground floor to the extent of 25% or 50 sqm which ever is less.
>
> The establishment shall be run only by the resident of the dwelling unit.
>
> The following activities shall not be allowed:
>
> Retail Shops...
>
> Repair Shops....
>
> Service Shops...
>
> Nursing Home ....."

In view of the reasoning discussed above, the impugned judgment passed by the Division Bench in not accepting the case of the appellant is not only erroneous on factual position but also error in law and the same is liable to be set aside.

The learned senior counsel for the respondent-owners has placed strong reliance on the grant of Regularisation Certificate dated 11.07.2006 by the MCD in favour of the respondent-owners to justify that the running of the Pathological Lab in the concerned building is valid and legal as the said certificate was granted by the competent authority. Therefore, it is necessary for us to examine the Regularisation Certificate issued by the MCD. The relevant portion of the Certificate for running the Pathological Laboratory in the concerned building is extracted hereunder:

> "....the competent authority has granted permission for running a clinical Pathological Laboratory at ground floor and first floor (area for this purpose is 222.25 sqm) in premises No. D-1, Hauz Khas, New Delhi under the Mixed Land Use Regulations of Government of India, subject to following conditions:
>
> xxxxxxx xxxxxxx
>
> 3. All parking arrangements will be made by you within the plot in question. 4. No commercial activity in the form of canteen or restaurant will be permitted. However, catering will be allowed only for the residents of the nursing home.
>
> 7. The applicant will ensure that no nuisance or hardship is created for the local residents...

You are required to deposit permission fee for the financial years 2004- 2005 and 2005-2006 and 2006-2007 amounting to Rs.8,39,916/- on account of Regularisation of running of nursing home in the aforesaid premises within a week."

On examining the Regularisation Certificate issued by the MCD, it is clear that the Regularisation Certificate is for running of a Pathological Lab whereas the conditions mentioned therein are directed towards running of a nursing home. Therefore, there is a lot of inconsistency within the Regularisation Certificate itself and due to the same, the Regularisation Certificate cannot be accepted by us as it is impermissible not only in law but also because the same was granted without seeking permission from the High Court during the pendency of the earlier Writ Petition No. 8808 of 2004 filed by the appellant.

39. In view of the aforesaid reasons, we have to hold that the grant of the Regularisation Certificate with the alleged retrospective effect to run the Nursing Home in favour of respondent-owners w.e.f. 11.7.2006 cannot be accepted by us and the same is liable to be quashed.

40. With regard to the environmental impact due the running of the Pathological Lab in the concerned building, we first examine Clause 15.5 of MPD 2021, which clearly states that any trade or activity involving any kind of abnoxious, hazardous, inflammable activities, non-compatible activities and polluting substance or process shall not be permitted. It is worthwhile to extract the definition of 'Process' which in the absence of a definition under the Environment Protection Laws, we are required to borrow it from Oxford Dictionary:

> "A systematic series of.mechanized or chemical operation that are performed in order to produce something."

It is also necessary to extract the definition of "hazardous substance"

> under Section 2 (e) of the Environment (Protection) Act, 1986 which word occurred in Clause 15.5 of MPD 2021.
>
> "(e) "hazardous substance" means any substance or preparation which, by reason of its chemical or physico-chemical properties or handling, is liable to cause harm to human beings, other living creatures, plant, micro-

organism, property or the environment;"

41. As per the report of the DPCC, it is clear that chemical substances emitted from the Pathological Lab will be obnoxious, non-compatible, polluting and therefore, the same are not permissible under Clause 15.5 of the MPD 2021. Further, when the respondent-owners started the Diagnostic Centre, they employed about more than 50 people and installed 25 Air Conditioners, two diesel generator sets of 25 KVA and 40 KVA each in the set back area, along with kerosene oil tanks, gas cylinders and electric panels. Around 300 patients' visit the centre per day and more than 100 cars are parked in the vicinity. All these factors lead to air pollution which is in contravention of the Air (Prevention and Control of Pollution) Act, 1981. At present, 80 employees are working and around 300 patients visit the Pathological Lab every day and vehicles are parked in and around the surrounding area which is also creating a parking problem to the residents of the area. The nuisance created by all these factors not only leads to air pollution but also noise pollution to a great extent. In this regard, it is necessary for us to examine the decision of this Court in the case of Noise Pollution (V) in RE[5] at paras 11, 103 and 104 wherein it was held that noise generated upto unpleasant or obnoxious levels violates the rights of the people to a peaceful, comfortable and pollution-free life guaranteed by Article 21 of the Constitution of India. The said paras are quoted hereunder:-

> "11. Those who make noise often take shelter behind Article 19(1)A pleading freedom of speech and right to expression. Undoubtedly, the freedom of speech and right to expression are fundamental rights but the rights are not absolute. Nobody can claim a fundamental right to create noise by amplifying the sound of his speech with the help of loudspeakers. While one has a right to speech, others have a right to listen or decline to listen. Nobody can be compelled to listen and nobody can claim that he has a right to make his voice trespass into the ears or mind of others. Nobody can indulge into aural aggression. If anyone increases his volume of speech and that too with the assistance of artificial devices so as to compulsorily expose unwilling persons to hear a noise raised to unpleasant or obnoxious levels then the person speaking is violating the right of others to a peaceful, comfortable and pollution-free life guaranteed by Article 21. Article 19(1)A cannot be pressed into service for defeating the fundamental right guaranteed by Article 21.

> 103. The Air (Prevention and Control of Pollution) Act, 1981 Noise was included in the definition of air pollutant in Air (Prevention and Control of Pollution) Act in 1987. Thus, the provisions of the Air Act, became applicable in respect of noise pollution, also.
>
> 104. The Environment (Protection) Act, 1986. Although there is no specific provision to deal with noise pollution, the Act confers powers on Government of India to take measures to deal with various types of pollution including noise pollution."

42. Further, it was held in this case that noise was included in the definition of "air pollutant" in the Air (Prevention and Control of Pollution) Act, 1981 and therefore, the provisions of the said Act became applicable in respect of the noise pollution also. It was also held that although there is no specific provision to deal with noise pollution, the Environment (Protection) Act, 1986 confers powers on the Government of India to take measures to deal with various types of pollution including noise pollution.

43. Further, on examining the evidence on record, particularly the photographs depicting the area in and around the building, it is clear that large diesel generator sets have been erected by the respondent-owners in the set-back area which is an illegal structure in the residential premises and is in contravention of the building byelaws and zonal regulations of the MCD.

44. The running of this large Pathological Lab has lead to emission of hazardous substances and in that process human beings, plants, micro organisms, and other living creatures' are being exposed to harmful physico- chemical properties. Not only this, they also create pollution which contaminates water on account of the discharge of chemical properties used in the process of running the Pathological Lab, causing nuisance and harm to public health and safety of the residents of the area. This fact is certified by the DPCC in its report dated 4.8.2008. The usage of such generator sets has led to the damage of the building and cracks have been found in the building structure. The explanation sought to be given by the respondent-owners is that the aforesaid generator sets were installed in the set-back area as the appellant has not permitted to install the same on the terrace of the building. The objection of the appellant installing the same in the terrace is that he has purchased the said area and the appellant is living on the second floor and therefore, if the generator sets are installed on the terrace, it would be completely impossible for him to live on the second floor of the premises due to the sound and air pollution caused by the generator sets. It would not only affect the appellant and his family but also the other neighbouring residents of the locality.

45. It is an undisputed fact that the consent was not obtained by the respondent-owners from DPCC under Section 25 of the Water (Prevention and Control of Pollution) Act which states that no person shall without the previous consent of DPCC establish or take any steps to establish any industry, operation or process or any treatment and disposal system or any extension or addition thereto which is likely to discharge sewage or trade effluent into a stream or well or sewer or land. It is mandatory under the said provision to first obtain consent from DPCC and admittedly such consent has neither been obtained by the respondent-owners nor granted by the respondent No.5, DPCC,

nor has the same been placed before the learned single Judge or the Division Bench or this Court. The running of the Pathological Lab for which the generator sets and other heavy equipments have been installed not only create sound pollution and air pollution but also the same is in contravention of the Water, Air and the Environment Protection Acts referred to supra. Therefore, in view of the relevant provisions of law referred to supra,the facts of the case and the evidence on record, we have to hold that the running of the Pathological Lab by the respondent-owners in the concerned building is in violation of law. In this aspect of the matter, we refer to the legal principles laid down by this Court in the case of M.C. Mehta v. Union of India[6], the relevant paragraph from the said case is extracted hereunder:

> "56. On 18-5-1995, Justice R.C. Lahoti (as the former Chief Justice of India then was) in the case of ANZ Grindlays Bank v. Commr., MCD echoed similar words and referred to decision of this Court, observing that the word "environment" is of broad spectrum which brings within its ambit hygienic atmosphere and ecological balance. It is, therefore, not only the duty of the State but also the duty of every citizen to maintain hygienic environment. There is constitutional imperative on the State Government and the municipalities, not only to ensure and safeguard proper environment but also an imperative duty to take adequate measures to promote, protect and improve both the man-made and the natural environment. Dealing with the municipal laws providing for power of demolition, it was observed that while interpreting municipal legislation framed in public interest, a strict constitutional approach must be adopted. A perusal of the master plan shows [pic]that the public purpose behind it is based on historic facts guided by expert opinion."

46. Even though the High Court issued notice in the writ petition to examine the case in so far as the Clauses 3 and 7 of the Regularisation Certificate, the learned senior counsel appearing on behalf of the respondent-owners contended that the High Court has examined this aspect and did not find any contravention of the aforesaid conditions or any illegality committed by the respondent-owners, therefore, this Court is required to examine only with regard to the aforesaid Clauses. This contention cannot be accepted by this Court particularly in view of the fact that there is blatant violation of the provisions of building bye-laws of MCD in using the building for the purpose other than the purpose for which it is constructed and further running the Pathological Lab or the Nursing Home is impermissible in the concerned building under the Master Plan 2001 or MPD 2021 and also under the provisions of the Water (Prevention and Control of Pollution) Act, 1986.

47. The running the Pathological Lab by the respondent-owners air, sound pollution is created rampantly on account of which the public resident health and peaceful has been adversely affected. Therefore, public interest is affected and there is violation of rule of law. Hence, we have examined this appeal on all aspects of the matter and on merits. This position of law is well settled in the catena of decisions of this Court. Further, the respondent-owners to justify that the Pathological Lab does comply with the safety measures and environmental regulation as enforced by the Government from time to time, have submitted the National Accreditation Board for Testing and Calibration Laboratories (NABL) Certificate that has been granted to the Diagnostic Centre. On our examination of the said certificate, it is true that the Pathological Lab had been granted such NABL certification,

however, the same was granted on 15.7.2001 and was valid only for three years from the date of issue of the certificate i.e. upto 14.07.2004. No record or document has been produced before us to prove that the Pathological Lab is still certified under the NABL certification. Hence, the above said justification and submission cannot be accepted by us.

Further, despite its notice by the MCD and DPCC, the illegal and unlawful activities of the respondent-owners have continued. Instead of taking prompt action as provided under the provisions of DDA Act, 1957 and the Environment Law referred to supra, the MCD proceeded to regularise the illegal and unlawful activities of the respondent-owners which has been carrying on since 1995 though it is a party to the writ petition proceedings initiated against them for running the Pathological Lab on the basement, ground floor, first floor and mezzanine floor of the building. Further, the DPCC not only regularised the commercial activities of the Pathological Lab run by the respondent-owners under the guise of a 'Nursing Home' with retrospective effect but no prompt action was taken under the provisions of the Act to either stop it or to demolish the illegal structure.

Therefore, both the MCD and the DPCC abdicated their statutory duties in permitting the owners to carry on with the unlawful activities which inaction despite persistent request made by the appellant and the residents of the area did not yield any results. The counsel for the MCD made the statement before the courts below and even before this Court that there are no illegal activities on the part of the respondent-owners as they are supported by issuance of a Regularisation Certificate. In this regard as discussed previously in this judgement, the issuance of Regularisation Certificate to run the Pathological Lab in the building is totally impermissible in law even though the respondent-owners have placed reliance upon Mixed Use of the land in the area as per MPD 2021 referred to supra.

Further, it is necessary for us to make an observation here that the conduct of the MCD and the DPCC for their inaction is highly deplorable as they have miserably failed to discharge their statutory duties on account of which there has been a blatant violation of the rule of law and thereby a large number of residents of the locality are suffering on account of the unlawful activities of the respondent-owners, whose activities are patronised by both the authorities.

In view of the reasons recorded by us on the relevant aspects which have emerged from the pleadings, the questions which were raised and the rival legal contentions urged, we have to reject the both factual and legal pleas on behalf of the respondent-owners. We also do not accept the reliance placed by the learned senior counsel Mr. L. Nageshwar Rao upon the National Capital Territory of Delhi Laws (Special Provisions) Second Act, 2011 No.20 of 2011, which was valid up to 31st December, 2014 in justification of the inaction and the same is wholly untenable in law. The contentions urged by the learned senior counsel placing reliance upon the MPD 2021 which came into force w.e.f. 07.02.2007 that the respondent-owners are permitted to run the Nursing Home and carry on with the Diagnostic Centre in the building placing further reliance upon the various judgments of this Court referred to supra are all unfounded and the same cannot be accepted as they are misplaced.

For the reasons stated supra, the appeal is allowed and the impugned judgments and orders of both the learned single Judge and Division of the High Court are hereby set aside and Regularisation Certificate is quashed and rule is issued. Further, directions are issued to the respondents MCD and DPCC to see that the unlawful activities of the respondent-owners are stopped as per our directions. The respondent-owners are directed to close down their establishment of running 'Dr. Dang's Diagnostic Centre' within four weeks from the date of receipt of the copy of this Judgment by shifting the same to alternative premises and submitting the compliance report for the perusal of this Court. If the respondent-owners do not comply with the above directions of this Court within four weeks, the MCD is directed to take necessary prompt steps for sealing or closing down of all the activities undertaken by them in the premises of concerned building and submit the compliance report for the perusal of this Court. All the I.A.s are disposed of accordingly. No costs.

.....J. [V. GOPALA GOWDA] .....J. [C.NAGAPPAN] New Delhi, March 20, 2015 ITEM NO.1A-For Judgment COURT NO.10 SECTION XIV S U P R E M E C O U R T O F I N D I A RECORD OF PROCEEDINGS Civil Appeal No(s). 8284/2013 ANIRUDH KUMAR Appellant(s) VERSUS MUNICIPAL CORP. OF DELHI & ORS. Respondent(s) Date : 20/03/2015 This appeal was called on for pronouncement of JUDGMENT today.

For Appellant(s) Ms. Purnima Bhat,Adv.

For Respondent(s) Mr. Vikas Mehta,Adv.

Mr. D. N. Goburdhan,Adv.

Mr. P. Parmeswaran,Adv.

Mr. Rakesh Kumar,Adv.

Hon'ble Mr. Justice V.Gopala Gowda pronounced the judgment of the Bench comprising His Lordship and Hon'ble Mr. Justice C. Nagappan.

The appeal is allowed in terms of the signed Reportable Judgment.

All the I.A.s are disposed of accordingly.

(VINOD KR. JHA) (MALA KUMARI SHARMA)
COURT MASTER COURT MASTER
(Signed Reportable Judgment is placed on the file)

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[2] (1981) supp. SCC 87

[4] 2010 (3) SCC 402

[6] AIR 1966 SCC 828

[8] (2010) 2 SCC 27

[10] (2005) 5 SCC 733

[12] (2006) 3 SCC 399