

News

Delhi High Court: Operating a law firm is not "commercial activity"



The New Delhi Municipal Council brought a complaint against a lawyer for operating an office in his basement two decades ago, but the court has already dismissed it.

The Delhi High Court recently reaffirmed in *B K Sood v. North Delhi Municipal Corporation* that operating a law firm is not a business.

The Court noted this when dismissing a 2004 suit against Advocate BK Sood, a Delhi resident who lived in a lower ground floor apartment, brought by the New Delhi Municipal Council (NDMC).

According to the NDMC, Sood was using the land for commercial purposes without the chairperson's consent, altering the property's specified use.

The NDMC maintained that the basement should only be used for storage, but attorney Sood was utilizing it for both office operations and human residence.

However, Justice Neena Bansal Krishna disagreed with the NDMC's assessment of whether operating a legal firm qualifies as commercial activity.

In the October 6 verdict, she found that "the activity of running an Office by the Lawyer is not a commercial activity."

The Court also stated that the Supreme Court has already addressed this issue in rulings in the instances of V Sasidharan v. M/s. Peter and Karunakar and others (1984) and MP Electricity Board and Others v. Narayan and Others (2005). The Delhi High Court's ruling in South Delhi Municipal Corporation v. BN Magon (2023) similarly reflected this viewpoint.

Furthermore, the Court determined that up to 25% of residential areas might be used for non-residential, non-nuisance activities under the Master Development Plan, 2001.

"The premises in question are admittedly residential premises, wherein part of it, i.e. Basement was being used for professional activity, which is permitted under the MDP, 2001," it continued.

The Court additionally determined that basements can be utilized as offices or for commercial purposes as long as they are air-conditioned and meet particular height, roof, ventilation, wall, and floor requirements, citing the Delhi Building Bye-Laws, 1983, which applied in this instance.

But in this instance, the Court concluded that these elements were not covered by the NDMC's inspection in order to ascertain if any of these requirements had been broken.

Since there was no evidence that Advocate Sood had broken either the Delhi Building Bye-Laws of 1983 or the Master Development Plan of 2001, the Court decided that the NDMC's suit could not be upheld.

Since the Petitioner had been operating his office in accordance with MDP, 2001 read with Delhi Building Bye-Laws, 1983, it must be assumed that there was no misuse of the space. The prosecution has failed to establish, even on the basis of proof, that Clause 14.12 of the Delhi Building by Laws, 1983, as modified from time to time, which permits a professional to use the basement as an office, was broken, the court said.

The lawyer's complaint was later dismissed by the court.

"If such a complaint is allowed to continue and choke the judicial system, it would be an abuse of the legal process and not serve any interest of justice, given the nature of unsubstantiated allegations and the fact that the case has been pending for more than 22 years," the Court said.

Advocate Sood also made an in-person appearance, represented by Senior Advocate AS Chandhiok, along with attorneys Tarranjit Singh Sawhney and Jasmeet Kaur Ajimal.

Together with attorneys Saksham Ojha and Geetashi Chandna, Additional Standing Counsel Abhinav Bajaj represented NDMC.