

IN THE COURT OF SH. PITAMBER DUTT
PRINCIPAL DISTRICT & SESSIONS JUDGE,
PATIALA HOUSE COURTS, NEW DELHI.

PPA No. 03/2024

CNR No. DLND-01-0001402024

1. Smt. Meenakshi Arora
W/o. Shri Manmohan Arora
R/o. P-32, Mochi Gaon,
Nanak Pura, Moti Bagh, New Delhi

Also at :

Shop No.11, Basrurkar Market
Moti Bagh, New Delhi

.....Appellant

Versus

1. New Delhi Municipal Council
Palika Kendra, Sansad Marg,
New Delhi-110001

2. Sh. R.P. Sati
Estate Officer
New Delhi Municipal Council
Palika Kendra, Sansad Marg,
New Delhi-110001

3. Sh. Mukesh Arora
R/o. P-32, Mochi Village,
Nanak Pura, Moti Bagh,
New Delhi

4. Smt. Bhawna Abrol
R/o. 46-D, Pandav Nagar,
DDA Flats, New Delhi-110008

.....Respondents

Date of Institution	:	12.01.2024
Arguments heard on	:	06.03.2026
Date of Order	:	17.03.2026

Appearances:-

Sh. Arvind Kumar, Ld. Counsel for the appellant.

Sh. Nilesh Sawhney, Ld. Counsel for respondent Nos. 1 & 2.
Sh. Rajesh Kaushik, Ld. Counsel for respondent Nos.3 & 4.

ORDER

1. Vide this order, I shall decide the appeal filed by the appellant against impugned order dated 08.12.2023 passed by respondent No.2 with regard to Shop No.11, Basrurkar Market, Moti Bagh, New Delhi. The brief facts necessitated in filing the present appeal as narrated by the appellant are as under.
2. The appellant has averred that respondent No.1 had originally allotted Shop No.11, Basrurkar Market, Moti Bagh, New Delhi to Sh. Shyam Sunder, father-in-law of the appellant w.e.f. 17.03.1966 for running a Pan, Bidis, Cigarettes and Provision Store. After the demise of Sh. Shyam Sunder, license of the said shop was transferred in the name of his wife Smt. Ramesh Rani being his legal heir.
3. The appellant has further averred that Smt. Ramesh Rani died intestate leaving behind her two sons namely Sh. Mukesh Arora and Sh. Manmohan Arora and one married daughter Ms. Bhawna Abrol. The appellant is a legally wedded wife of Sh. Manmohan Arora, son of Late Smt. Ramesh Rani.
4. The appellant was having matrimonial dispute with her husband who failed to discharge his obligation towards the appellant and her sons therefore Smt. Ramesh Rani handed over the shop in question to the appellant so that she would earn her livelihood and maintain herself and two sons. Since then, the shop in question was in lawful physical possession of the appellant.

5. The appellant has further averred that after the demise of Smt. Ramesh Rani on 17.05.2010, respondent Nos.3 and 4 tried to forcibly dispossess the appellant from the shop. Respondent Nos. 3 and 4 along with husband of the appellant got the license deed of the shop in question transferred in their names, being legal heirs of late Smt. Ramesh Rani, however, the law department of respondent No.1 clarified that the said transfer of license in the name of respondent Nos. 3 & 4 was wrong because respondent No.4 is a married daughter and got no right in the license of the shop.
6. The said license in the name of respondent Nos. 3 & 4 was granted in connivance and collusion of the official of respondent No.1.
7. The appellant has further averred that respondent No.1 alleged that license deed was expired and respondent Nos. 3 & 4 have become unauthorized occupants in the public premises, therefore, respondent No.1 filed an application U/s.5 of the Public Premises (Eviction of Unauthorized Occupants) Act, 1971 against the appellant and respondent Nos. 3 & 4.
8. The appellant appeared before the Estate Officer and filed her reply taking all the objections and claimed that she is in occupation of the shop in question. However, the Ld. Estate Officer without application of mind and without following the principle of natural justice, passed the impugned order dated 08.12.2023 of which appellant got knowledge only on 22.12.2023 when official of respondent No.1 visited and handed over the copy of the order. However, official of the respondent along with the appellant came at the premises in question on 29.12.2023 and forcibly dispossessed the appellant from the subject premises and wrongly and illegally sealed the premises with all the stocks, goods and materials lying

inside. Feeling aggrieved from the same, the present appeal has been filed.

9. Ld. Counsel for the appellant has contended that the Estate Officer has passed the order without considering the reply submitted by the appellant and the documents filed along with it. The order has been passed without application of mind. He further contended that the Estate Officer failed to appreciate that appellant has been in lawful possession of the shop in question after the demise of her mother-in-law Smt. Ramesh Rani and respondent Nos. 3 & 4 wrongly and fraudulently got the license transferred in their names in connivance with her husband and official of respondent No.1. Ld. Counsel for the appellant prayed that the impugned order is bad in law therefore requires to be set aside and the possession of the shop in question/licensed premises is required to be restored.
10. Ld. Counsel for the respondent No.1 contended that the appellant was unauthorized occupant in the premises in question. No license deed was executed in her favour and she has no right to stay in the shop in question. He further contended that the license deed executed by the department expired by the efflux of time and therefore the occupancy of the shop in question became unauthorized due to which an application was filed before the Ld. Estate Officer and the Ld. Estate Officer has rightly passed the order dated 08.12.2023. He further contended that neither the appellant nor respondent Nos. 3 & 4 have any right to occupy the shop in question after the expiry of the term of the license deed and there occupation in the shop in question was 'unauthorized'. He prayed that appeal be dismissed.

11. Ld. Counsel for respondent Nos. 3 & 4 has contended that appellant had taken over the possession without their consent who were the licensees of the shop in question, therefore, she has no right in the shop in question. He prayed that appeal filed by the appellant be dismissed.
12. I have heard Ld. Counsel for the appellant, Ld. Counsel for the respondents, perused the appeal, impugned order as well as the record. Perusal of the above shows that the shop in question was originally allotted on license basis to Sh. Shyam Sunder for running a Pan, Bidis, Cigarettes and Provision Store. After the demise of Sh. Shyam Sunder, license deed regarding the shop in question was executed in the name of Smt. Ramesh Rani upto 13.07.2002.
13. After the demise of Smt. Ramesh Rani, the license of the shop in question was allotted to respondent Nos. 3 & 4 i.e. Sh. Mukesh Arora and Smt. Bhawna Abrol on 29.07.2011 w.e.f. 17.05.2010 to 31.03.2012 on monthly rent of Rs.1,689/- per month on temporary basis. After the expiry of the terms of the said license deed i.e. 31.03.2012, no fresh license deed was ever executed either in favour of the appellant or respondent Nos.3 & 4.
14. Respondent Nos.3 & 4 have claimed that appellant has taken over the possession of the shop in question illegally. Clause 9 of the license deed cast an obligation upon the allottee not to allow any other person to use the premises which is the subject matter of the license deed. The said Clause reads as under :

“That the licensee shall not permit the allotted premises or any part thereof to be used by any other person for any purpose whatsoever without the previous consent in writing of the licensor and in default thereof shall be liable for ejection. The licensee shall not introduce any partner nor

the licensee shall transfer possession of the premises or part thereof or otherwise carry on the business in the premises with any other person or assign, transfer, change or otherwise alienate his interest in the premises”.

15. Clause 12 of the license deed talks about revocation of the license at any time without assigning any reason and in the event of revocation of the license on account of breach of any terms and condition of the license, the licensee shall be bound to quit and vacate the premises within one week of the notice of revocation.
16. A perusal of Clause 9 and 12 of the license deed thus makes it absolutely clear that the allottee has not to retain the shop in question and once he was divested with the possession of the allotted shop, same tantamount to violation of Clause 9 of the license deed for which the shop in question was required to be vacated.
17. Admittedly, appellant took over the possession of the shop in question from respondent No.3 after the demise of Smt. Ramesh Rani.
18. The occupation of the appellant in the shop in question is thus in violation of Clause 9 of the license deed therefore respondent No.1 had issued notice dated 06.09.2012, Ex.PW1/2, vide which appellant and respondent Nos.3 & 4 were directed to hand over the peaceful possession of the shop to New Delhi Municipal Council (NDMC) within seven days of the receipt otherwise New Delhi Municipal Council (NDMC) will take action for forcible eviction.
19. The appellant and respondent No.3 & 4 did not hand over the possession therefore respondent No.1 approached the Ld. Estate Officer by filing an application which was allowed and impugned order dated 08.12.2023 was passed.

20. The appellant has prayed restoration of her possession in the shop in question. Admittedly, appellant was not the licensee of the shop in question. The shop in question was occupied by Smt. Ramesh Rani as licensee uptill 13.07.2002 and after her demise, the license deed qua the shop in question was executed in the names of respondent Nos. 4 & 5.
21. Ld. Counsel of the appellant has contended that official of respondent No.1 illegally granted license qua the shop in question in the name of respondent Nos. 3 & 4.
22. Whether the said license deed in favour of respondent Nos. 4 & 5 was in accordance with law or not? fact remains that appellant was having no interest in the shop in question. She was neither an allottee of the shop nor any license deed was ever executed in her name. Her occupation in the shop in question was unauthorized since the inception, therefore, she could not be allowed to retain the possession of the shop merely on the ground that the previous licensee allowed her to take over the possession to maintain her child during her lifetime.
23. The occupation of the appellant in the shop in question was unauthorized since the inception, therefore, she was required to be evicted from the shop in question.
24. The Ld. Estate Officer has considered the plea taken by appellant and respondent Nos.3 & 4 and has thus rightly observed that after 31.03.2012 on expiry of license, appellant did not hand over physical possession of the shop as per the terms and conditions and therefore becomes unauthorized occupant. The Ld. Estate Officer has thus rightly passed the order dated 08.12.2023 in consonance with law and I find no legal infirmity in the same.

25. In view of the above facts and circumstances, I am of the view that the Ld. Estate Officer has passed the order dated 08.12.2023 in accordance with law and I find no infirmity in the same. Accordingly, the present appeal filed by the appellant against the order dated 08.12.2023 is dismissed. Record of the Ld. Estate Officer be sent back along with copy of this order. Appeal file be consigned to record room after due compliance.

**Announced in the open Court
Today i.e. on 17.03.2026**

**(PITAMBER DUTT)
Principal District & Sessions Judge,
New Delhi District, Patiala House Courts
New Delhi.**