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

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Date of decision: 27th April, 2026

+ **W.P.(C) 1967/2018 & CM APPL. 8100/2018**

RAMWATI

.....Petitioner

Through: **Ms. Manini Brar and Ms. Muskaan
Chawla, Advocates**

versus

**NEW DELHI MUNICIPAL COUNCIL AND
ANR.**

.....Respondents

Through: **Mr. Sriharsha Peechara, Standing
Counsel with Mr. Soumit Ganguli,
Ms. Ravicha Sharma, Ms. Shruti
Agarwal and Mr. Akash Sharma,
Advocates for NDMC
Mr. Digvijay Rai, Mr. Archit Mishra
and Mr. Saurabh Kansal, Advocates
for R-2**

CORAM:

HON'BLE MR. JUSTICE AMIT BANSAL

AMIT BANSAL, J. (Oral)

1. The present writ petition has been filed seeking the following reliefs:-

- a) A writ in the nature of certiorari calling for the records of the case for perusal;
- b) A writ of prohibition permanently restraining the respondent no. 1 from taking any actions in pursuance of office letter dated 26.05.2009 and thus, transferring the rights/license of the demised shop in name of respondent no.2;



- c) A writ of certiorari quashing the action on part of the respondents in issuing office order No.D/SO (Estate)/1548/2009 dated 25.06.2009 in the name of respondent no. 2 regarding relocation of shop no. 15, Old R.K. Ashram Marg, New Delhi to newly constructed shop No.15, behind RML Hospital, Old R.K. Ashram Marg, New Delhi;
- d) A writ of mandamus directing the respondent no. 1 to forthwith evict the respondent no. 2 and thereafter hand over the possession of newly constructed shop No.15, behind RML Hospital, Old R.K. Ashram Marg, New Delhi to petitioner;
- e) A Writ of mandamus commanding the respondents to pay the cost of the petition to the petitioner;

2. It is the case of the petitioner that she is an illiterate person belonging to the Scheduled Caste category (hereinafter 'SC category'). The petitioner was allotted the shop No. 15, Old R.K. Ashram Marg, New Delhi pursuant to a tender process initiated by the respondent no.1/NDMC *vide* allotment letters dated 04.12.1991 and 07.01.1992. The said shop was allotted under the SC category.

3. It is the case of the petitioner that one Mr. Pradeep Singh and Mr. R. K. Gupta lured the petitioner into entering into a partnership with the private respondent no.2. for running of the said shop. Since, the petitioner was illiterate, she signed the documents that were presented to her, being the partnership deed dated 24.03.1992. Accordingly, the possession of the shop was handed over to the private respondent no.2. The petitioner further contends that the private respondent no. 2 continued to be in possession of



the shop and kept carrying on business from the shop.

4. It is submitted that thereafter, the private respondent no. 2 wrote a letter dated 29.07.1992 to the respondent no.1/NDMC seeking transfer of allotment of the shop from the petitioner's name to the name of the private respondent no. 2. *Vide* letter dated 26.05.2009, the respondent no.1/NDMC initiated the process to regularise license in the name of respondent no.2.

5. In the counter-affidavit filed by the respondent no.1/NDMC, it has been stated as under:

5.1. It is admitted that the shop was allotted to the petitioner under the reserved category as the petitioner belong to the SC category.

5.2. A show cause notice was issued by the respondent no.1/NDMC on 24th August, 1992 on account of subletting of the shop to respondent no.2.

5.3. On 4th May, 1998, another show cause notice was issued by the respondent no.1/NDMC to the petitioner for encroachment of public area and violation of terms of the license.

5.4. On 14th June, 2007, yet another show cause notice was issued by the respondent no.1/NDMC to the petitioner on account of trade violation, unauthorised construction and encroachment, subletting and removal of a wall.

5.5. Since, the violations were not removed, a cancellation order was passed by the respondent no.1/NDMC on 20th August, 2007, cancelling the allotment of the shop and withdrawing the license.

5.6. In pursuance of the cancellation, the respondent no.1/NDMC initiated proceedings under the Public Premises (Eviction of Unauthorised Occupants) Act, 1971 (hereinafter 'PPA, 1971').

5.7. In the said proceedings, the private respondent no.2 entered



appearance and filed an application stating that all violations have been removed.

5.8. Accordingly, the proceedings filed under the PPA, 1971 were withdrawn on 15th May, 2009.

6. The following objections to the maintainability of the writ petition have been raised in the counter-affidavit:

6.1. No complaint was received from 1992 to 2010 from the petitioner. Even when the respondent no.1 issued Show Cause Notices in 1998 and 2007 the same were responded to by the private respondent no. 2 and not the petitioner.

6.2. Possession of the shop has remained with the private respondent no. 2 since 1992 and the same was not challenged by the petitioner during the period from 1992 to 2010.

6.3. The present writ has been filed after an inordinate delay.

7. In the counter affidavit filed on behalf of the private respondent no.2, it is stated that the present writ petition is not maintainable as the petitioner seeks release in respect of cancellation of partnership and its dissolution which took place in March, 1992. The petitioner has failed to take any steps for the cancellation of the said documents before any competent court of law. It is further stated that the issue of possession is not a fundamental rights issue, and is triable before a competent court of civil jurisdiction.

8. Ms. Manini Brar, counsel appearing on behalf of petitioner, submits that since the shop was reserved for SC category, the same cannot be transferred to a general category person such as respondent no.2.

9. Ms. Brar has relied upon the judgment of Coordinate Bench in *Nathia Devi v. New Delhi Municipal Council & Anr., 2023 SCC OnLine Del*



3830, wherein this Court taking note of the NDMC policy, Resolution No.6 dated 18th March, 1999, has held that units which have been reserved for SC/ST category persons cannot be transferred in favour of general candidate. In the said case, the writ petition was filed by a transferee belonging to the general category, seeking regularisation in his favour, and the same was rejected by the Court. The relevant observations from the said judgment are set out below:-

“35. By relying upon the said policy, it has been contended on behalf of NDMC that the said kiosk which had been allotted under a special category, cannot be transferred in favour of the petitioner as a ‘General Category’. It is further the case on behalf of NDMC that the change of hands through partnership or any other method as applicable to ‘Reserved category units’, refers to transfer under the ‘Reserved Category’ itself, as there is a bar to transfer of ‘Reserved category units’ to ‘General Category’.

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39. The respondent NDMC has made its policy with respect to transfers under the ‘General category units’ and the ‘Reserved category units’. The respondent NDMC being the author of the said policy, the policy has to be read in the manner as enacted by the NDMC. Supreme Court has held time and again that restraint be exercised in matters of contract involving state instrumentalities. The authority which has authored the contract or tender, is the best judge as to how the documents have to be interpreted. If two interpretations are possible, then the interpretation of the author must be accepted.

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41. The aforesaid policy of the NDMC stipulates in clear terms that no ‘Reserved category units’ may be transferred to the ‘General category units’.** It is the contention on behalf of NDMC that the gratuitous allotment as made in the present case, also constitutes part of ‘Reserved category units’. **Thus, it is apparent that the regularisation of the kiosk in the name of the petitioner was clearly contrary to the policy of the NDMC itself.** It is undisputed that the allotment in the present case was made to the original licensee on gratuitous basis @Re.1 per month based upon special consideration that the original licensee was a National Bravery Award holder. Thus, the said allotment was certainly not an allotment under General category on market rates. **Therefore, since kiosks under the Reserved category could not be converted into General category as per the policy of the NDMC as contained in Resolution No. 6 dated 18.03.1999, the regularisation in favour of the petitioner was



clearly illegal and against the policy of the NDMC.”

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49. Besides, it is relevant to note that Clause 8 of the Licence Deed dated 12.04.1983 in favour of the original licensee Ramesh Kumar clearly stipulated that he shall not enter into any partnership/part with possession of the said kiosk. It was further specified that in default, the licensee Ramesh Kumar was liable to ejection. Clause 8 of the Licence Deed in favour of the original licensee, Ramesh Kumar, as reproduced in the impugned judgment dated 24.05.2018 passed by the Ld. District & Sessions Judge, reads as follows:

“8. 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 and in default thereof shall be liable for ejection. The licensee shall not introduce any partner nor the licensee** shall transfer the 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”

50. Perusal of the aforesaid makes it clear that the original licensee was not entitled to introduce any partner or transfer the possession of the premises. Therefore, the petitioner cannot draw any benefit from the partnership deed with the original licensee on the basis of which possession was taken by the petitioner, when the said partnership deed itself constituted violation of the terms of the licence in favour of the original licensee. Therefore, on this ground also, the petitioner cannot seek any right over the premises in question.”

[Emphasis Supplied]

10. Mr. Sriharsha Peechara has drawn attention of the Court to the stand taken by the respondent no.1/NDMC in the counter-affidavit filed by the NDMC, wherein, it has been admitted that the shop cannot be transferred in favour of a non-SC/ST person in terms of Clause 3(i) of resolution No.6 dated 18th March, 1999. The relevant portion of the counter-affidavit is extracted below:

IV. It is most respectfully submitted that the shop in question was to be allotted to a SC/ST applicant and that the same



cannot be transferred to other category without fulfilling the conditions of such transfer. It is most humbly submitted that under clause 3(i) of Resolution No. 6 dated 18.03.1999 of Respondent No. 1 transfers are to be allowed freely except in the case of reserved categories. Further, as per clause 10 no reserved category units meant for SC/ST/Handicapped/War Widows/Ex-Servicemen may be transferred to General Category. Therefore, by entering into a partnership deed with Respondent No. 2 without prior permission of Respondent No. 1 the Petitioner has not only committed breach of terms and conditions but also breach of aforementioned resolution. The copy of above stated policy has been annexed as **Annexure R-10.**

11. In view of the aforesaid submissions of parties, the present writ petition is disposed of while holding that the NDMC in light of its policy and the judgment of this Court in *Nathia Devi (supra)*, cannot regularise or transfer the allotment in favour of the private respondent no.2. However, in exercise of its power under Article 226 of the Constitution of India, this Court cannot direct the respondent no.2 to grant the relief of possession in favour of the petitioner.
12. Needless to state that petitioner would have liberty to initiate appropriate proceedings for any other relief that may be permissible in law.
13. Pending application stands disposed of.

AMIT BANSAL, J

APRIL 27, 2026
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