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

+ CM(M) 4181/2024, CM APPL. 75765/2024, CM APPL. 75766/2024,
CM APPL. 75767/2024

BSES YAMUNA POWER LIMITED

.....Petitioner

Through: Mr. Anupam Varma, Mr. Nikhil
Sharma, Ms. Simran Kohli & Mr.
Krishan Singh Rana, Advocates.

versus

ASHRAFI DEVI & ANR.

.....Respondents

Through: Ms. Urvi Mohan, Panel Counsel with
Mr. Shiven Varma, Advocate for R-
2/GNCTD.

CORAM:

HON'BLE MS. JUSTICE TARA VITASTA GANJU

ORDER

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23.12.2024

CM APPL. 75767/2024 [Exemption from filing certified/typed copies]

1. Allowed, subject to the Petitioner filing typed copies of the annexures within a period of four weeks.
2. The Application stands disposed of.

CM APPL. 75766/2024 [Seeking permission to file lengthy synopsis]

3. Allowed, subject to the Petitioner filing lengthy synopsis of list and dates within a period of four weeks.
4. The Application stands disposed of.

CM(M) 4181/2024 & CM APPL. 75765/2024 [Stay]

5. The grievance of the Petitioner as articulated in the present Petition is set out in its prayers which reads as follows:



“(a) set aside the observations contained in Paragraph 18, 20 and 21 of the Order dated 21.12.2023 passed in PPA No. 11/2021 titled “Ashrafi Devi & Anr v. BSES Yamuna Power Limited” by the Principal District Judge & Sessions Judge, North West District, Rohini Courts to the extent the same has been challenged in terms of the facts and grounds stated above and direct the Respondent No. 1 & 2 to vacate the Quarter No. H-54, Type-I, BSES Residential Colony Tripolia, Delhi- 110007 and pay Rs. 930080/- (Rupees Nine Lakhs Thirty Thousand & Eighty Only) for the illegal use and occupation of the premises from 31.07.1990 to 31.07.2019, and further pay damages of Rs. 2,805/- per month until the date of realization.

(b) Set aside the Order dated 02.09.2024 passed in Review Petition No. 84/2024 and in Review Petition No. 9/2024 titled “Ashrafi Devi & Anr v. BSES Yamuna Power Limited” by the Principal District Judge & Sessions Judge, North West District, Rohini Courts, Delhi ”

6. The learned Counsel for the Petitioner has drawn the attention of the Court to the impugned order dated 21.12.2023 passed by the learned Principal District & Sessions Judge, North West District, Rohini Courts, Delhi [hereinafter referred to as the "Impugned Order"] which was challenged by both the Petitioner and Respondent No.1, leading to two orders for review both dated 02.09.2024, to submit that the Impugned Order has incorrectly held that the provisions of the Public Premises (Eviction of Unauthorised Occupants Rules), 1971 [hereinafter referred to as the "PPE Act"] have been wrongly invoked by the Petitioner, since the premises no longer fall within the definition of Public Premises under Section (2)(e)(3) of the PPE Act.

7. Learned Counsel for the Petitioner contends that the Petitioner is the successor-in-interest of the erstwhile Delhi Vidyut Board (DVB). The premises in issue, i.e., H-54, Type-I, BSES Residential Colony Tripolia, Delhi-110007 [hereinafter referred to as the "subject premises"] are in the occupation of an erstwhile employee of DVB. Relying on the Order No. F-



11/99/2001-Power/PF-III/2828 dated 13.11.2001 of the Department of Power [hereinafter referred to as the "Officer Order"], it is contended that DVB had decided classification and allocation of colonies and flats in terms of the Office Order and that the transfer by DVB did not include a transfer of land. Thus, it is submitted that the subject premises would continue to remain as public premises, the property of the Delhi Government. Thus, the Impugned Order suffers from an infirmity.

7.1 It is further contended that Clause 2(b) of the Officer Order, states that no existing employee of DVB could be asked by the Petitioner to vacate the flat occupied by the employee during his tenure with the Petitioner/company. Thus, it is contended that the Petitioner/Company exercises limited control over the employee.

8. The learned Counsel for the Petitioner submits that the effect of the Impugned Order is that all similar matters which are pending, would also be dismissed in the event that the impugned order is not interdicted in the interregnum period.

9. The matter requires further examination.

10. Issue Notice. Learned Counsel for Respondent No.2 accepts Notice. On steps being taken, let Notice be issued to Respondent No.1 *via* all modes. An affidavit of service be filed within a week.

11. Counter-Affidavit be filed within a period of four weeks.

11.1 Rejoinder, if any, be filed within a period of two weeks thereafter.

12. Till the next date of hearing, the observations contained in paragraph 18, 20 and 21 of the order dated 21.12.2023 as well as both orders dated 02.09.2024 passed by the learned Trial Court in RP No. 84/24 and RP No. 9/24 shall be kept in abeyance.



13. List on 03.02.2025.
14. In the meantime, no third-party rights shall be created by the parties with respect to the premises in issue i.e., quarter no. H-54, Type – I, BSES Residential Colony Tripolia, Delhi – 110007.
15. Parties will act based on the digitally signed copy of the order.

TARA VITASTA GANJU, J

DECEMBER 23, 2024/ ha

Click here to check corrigendum, if any