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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **W.P.(C) 2399/2017**
SUREDNER SINGH RAO

..... Petitioner

Through Mr.Jai Sahai Endlaw, Advocate

versus

NEW DELHI MUNICIPAL COUNCIL AND ANR

..... Respondents

Through Ms.Malvika Trivedi and Mr. Jitendra
Kumar Tripathi, Advocates for R-1
and R-2/NDMC.

CORAM:
HON'BLE MS. JUSTICE INDERMEET KAUR

ORDER

% **15.03.2017**

C.M. No.10352/2017 (exemption)

Exemption is allowed subject to just exceptions. Application disposed of.

W.P.(C) 2399/2017 & C.M. No.10351/2017 (stay)

Petitioner before this Court is an erstwhile employee of the New Delhi Municipal Council/respondent no.1. He had been allotted a government accommodation bearing quarter No.1, Type-V, Electric Sub-station, Golf Links, New Delhi. Petitioner retired from service on 31.01.2013. Thereafter in December, 2013 the petitioner was appointed as the Adviser (Law and Estate) of respondent no.1. His services were discontinued at his request on 19.01.2015. During this period he continued to retain this government quarter. On



04.02.2015 he received a notice from respondent no.1 directing him to vacate the premises; this notice was under Section 5 of the Public Premises (Eviction of Unauthorized Occupants) Act, 1971 (hereinafter referred to as the said Act). The extension sought by the petitioner was denied. On 27.5.2015 an eviction order was passed against him by the Estate Officer. His appeal under Section 9 of the said Act stood dismissed on 04.3.2017; this is the order which has been impugned before this Court.

Learned counsel for the petitioner has drawn attention of this Court to a communication dated 07.10.2015 addressed by the Ministry of Urban Development to respondent no.1; submission being that as way back as in October, 2015 a decision had been arrived at inter se respondent no.1 and the said Ministry to exchange the flat which was in possession of the petitioner with another flat and the said other flat at Netaji Nagar was to be taken into the NDMC Pool and the flat of the petitioner would be brought in the General pool in order that inter pool exchange request of the petitioner made to the Department could be implemented. Learned counsel for petitioner vehemently submits that this decision having been taken in his favour he cannot now be ordered to be evicted. Learned counsel for the petitioner additionally points out that in fact this matter is pending before two Departments i.e. respondent no.1 and the Ministry of Urban Development and for this he has drawn attention of this Court to the letter dated 06.02.2017 which had been addressed by respondent no.1 to the Ministry of Urban Development wherein the proposal of the inter-pool exchange of the accommodation in



occupation of the petitioner with the flat at Netaji Nagar could be expedited. Submission being that this matter being pending before the Authority, the order directing his eviction has necessarily to be stayed.

On advance notice, learned counsel for respondent nos.1 and 2/NDMC has put in appearance. Her submission is that the petitioner is admittedly not an employee of the NDMC; he cannot retain this accommodation. Additional submission being that the communication dated 07.10.2015 relied upon by the petitioner is not a decision. It is just a unilateral act on the part of the Ministry of Urban Development which is not binding upon respondent no.1. Learned counsel for respondent no.1 also points out that in the absence of Ministry of Urban Development being made a party this matter cannot really be resolved. Additional submission being that these arguments which have been addressed before this Court were not brought to the notice of the Appeal Court at the time when the appeal under Section 9 was being argued. This position is disputed. Learned counsel for the petitioner submits that in his written submission he had brought to the notice of the Court the intimation of the letter dated 07.10.2015 and this has also been brought to the notice of the learned District and Sessions Judge who was hearing this appeal. Noting these submissions and the counter submissions, this Court is of the view that the response of the Ministry of Urban Development would be necessary. Let notice be issued to the learned ASG. The Ministry of Urban Development will respond to the communications particularly communication dated 07.10.2015 as also



the letter addressed to them by respondent no.1 dated 06.02.2017 to which a response had been received dated 03.3.2017. This letter reflects that the matter is yet pending inter se the Ministry and respondent no.1 and is the subject matter of discussion. The Ministry of Urban Development be impleaded as a party; he be arrayed as respondent no.3. Amended memo of parties be filed in 10 days.

Counter affidavit/response of respondent nos.1 and 2 as also the newly impleaded respondent be obtained within a period of three weeks with advance copy to the petitioner who may file rejoinder before next date.

The impugned order is stayed till next date.

List on 02.5.2017.

INDERMEET KAUR, J

MARCH 15, 2017

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