

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

+ W.P.(C) 2304/2007

P.L.MALHOTRA

..... Petitioner

Through Mr. Neeraj Malhotra, Adv.

versus

N.D.M.C. & ORS.

..... Respondents

Through Mr. Raghu Tandon, Adv.

CORAM:

HON'BLE MR. JUSTICE SANJIV KHANNA

ORDER

% 08.04.2008

1. Respondent/NDMC has earlier initiated proceedings under the Public Premises (Eviction of Unauthorized Occupants) Act, 1971 but the Estate Officer dismissed the said eviction petition. NDMC challenged the said order before the Additional District Judge but the appeal filed by NDMC was dismissed vide order dated 10th January, 2007. The said order has attained finality with the NDMC not filing any writ petition challenging the order passed by the Additional District Judge.

2. NDMC within 2 months thereafter on 22nd March, 2007 issued the impugned notice to the petitioner stating as under :

“ Chairperson, NDMC accorded approval to take over the possession of Shop no.8, Palika Parking, Connaught Place, New Delhi.

It is proposed to take over the forcibly possession of the said shop on 26.03.07 at 01.00 p.m. Director (Enforcement) is therefore requested to depute his staff for the same and also to have the goods removed if any found at the site at the time of taking over the possession. An inventory of the same be also prepared for depositing the same in Enforcement Store.”

3. The impugned notice is sought to be justified on the ground that the petitioner had indulged in illegal activities and an FIR has been registered for violation of intellectual property rights and as one Mr. Ramesh Kumar was found selling pornographic and pirated movies/VCDs/MP3 players from the shop. It is submitted that the respondent/NDMC is accordingly entitled to take action in terms of Licence Deed and cancel the same.
4. Cancellation of the licence deed in terms of said licence is one aspect. However, NDMC cannot forcibly take possession of the shop by taking law in its hands. NDMC cannot act in an unconstitutional manner and indulge in use of force and violence. Proceedings will have to be initiated under the Public Premises (Eviction of Unauthorized Occupants) Act, 1971 against the petitioner.
5. It is directed that the respondent/NDMC will not take forcible possession of the shop no.8, Palika Bazar Parking, Connaught Place, New Delhi but will

take possession of the same after following the procedure prescribed by the law.

With the above observations, the writ petition is disposed of.

SANJIV KHANNA,J

APRIL 08, 2008

Vld/RN