

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

+ W.P.(C) 2093/2008

SHASHI PAL Petitioner
Through Mr.(presence not given)

versus

N.D.M.C. & ORS. Respondent
Through Ms.Kanika Agnihotri, Adv.

CORAM:
HON'BLE MR. JUSTICE SANJIV KHANNA

ORDER

% **31.03.2008**

1. The petitioner was allotted shop bearing No.G-27, Palika Bhawan, R.K.Puram, New Delhi on licence basis on 30.5.1994. It is the case of the petitioner that on 7th October, 1994, he had entered into a partnership deed with one Mr.Jamil Ahmed, respondent no.3 herein and on 14.11.1994, the said partnership firm was dissolved and the petitioner withdrew from the said firm. It is the case of the petitioner that intimation in this regard was sent by him to the respondent-NDMC and under some policy, transfer of licence deed is permissible. It appears that respondent no.3 did not deposit the licence fee or enhanced fee with NDMC as a result the transfer was never regularized by NDMC. On 10.11.2006, the respondent-NDMC took over the possession of the property and initiated proceedings under Section 7 of the Public Premises (Eviction of Unauthorized Occupants) Act,

1971 claiming recovery of damages. The said proceedings are still pending.

2. Two prayers made in the present writ petition are for quashing of proceeding under Section 7 of the Public Premises (Eviction of Unauthorized Occupants) Act, 1971 and issue of writ, order or direction in the nature of mandamus commanding respondent no.1 not to licence out the premises to any third person and restore the possession of the premises to the petitioner.

3. Regarding second prayer, the petition is highly belated and bad for laches. As per the case of the petitioner himself, he has not been in possession of the property on or after 14.11.1994. Moreover, DDA had taken over the possession of the property on 10.11.2006. The present writ petition has been filed only on 12.3.2008.

4. It is the case of the respondent-NDMC that the petitioner had indulged in subletting and vacated the property and transfer in favour of the sublettee was never recognized and accepted. As the per note sheet at page 30, shop in question was found to be in occupation of unauthorized persons or trespassers as the sublettee had also vacated the shop.

5. In these circumstances, I am not inclined to entertain the present writ petition on the second prayer.

6. With regard to first prayer, proceedings under Section 7 of the Public Premises (Eviction of Unauthorized Occupants) Act, 1971 are still pending. It will not be proper for this Court to interfere in the said proceedings. The petitioner is entitled to raise all defences available to him under law before the Estate Officer. If required, he can challenge the order passed by the Estate Officer.

The writ petition is disposed of.

SANJIV KHANNA, J.

MARCH 31, 2008

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