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

+ W.P.(C) 7774/2011

MIRZA REHAN BEG NOORI Petitioner
Through: Mr. S.N. Kumar & Mr. K.B. Soni,
Advocates.
versus

JAMIA MILLIA ISLAMIA & ANR. Respondents
Through: Nemo

CORAM:
HON'BLE MR. JUSTICE SUNIL GAUR

ORDER
01.11.2011

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1. This is second round of litigation for the petitioner in proceedings under Section 9 of Public Premises (Eviction of Unauthorised Occupants) Act, 1971.

2. Order of eviction dated 12.07.2011 passed against the petitioner in relation to quarter No. E-12 (MCD No.47), Jamia Staff Quarters, Chhappar Wali Masjid, Jamia Nagar, Okhla, New Delhi, was successfully challenged by the petitioner in appeal in the first round, as vide order of 23.4.1999, the aforesaid eviction order was set aside, as the complete records were not produced and the order of the Estate Officer was found to be not-complying with the provisions of Section 4(1) of Public Premises (Eviction of Unauthorised Occupants) Act, 1971. However, it is evident from the order of 25.10.2005 passed in appeal that liberty was granted to the respondents to issue fresh notice under Section 4(1) & Clause (B) of Sub Section 2 Public Premises (Eviction of

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Unauthorised Occupants) Act, 1971.

3. Now, in exercise of liberty granted by the aforesaid order, respondents have issued the impugned notice of 12.07.2011, which is being challenged by way of this writ petition on merits.

4. After having heard learned counsel for the petitioner, I find that it is not open to the petitioner to urge on merits because the petitioner has already filed reply to the Show Cause Notice before the Estate Officer and now the matter is pending for petitioner's evidence.

5. Instead of urging on merits in this writ petition, the appropriate course for the petitioner would be to lead evidence before the Estate Officer to establish as to how petitioner's possession over the aforesaid premises is authorized one. It is being so said, as the Division Bench of this Court in '**Union of India Vs. S.M.Aggarwal & Ors.**' 1995 (33) DRJ (DB) 371, has declared in no uncertain terms that the burden of showing that the occupant is not in unauthorized occupation of public premises is upon the occupant.

6. No case for exercise of writ jurisdiction is made out. Hence, this petition is dismissed in *limini*, while refraining to comment upon the merits of this case.

CM No.17594/2011 (u/S 151 CPC)

Dismissed as infructuous.


(SUNIL GAUR)
JUDGE

NOVEMBER 01, 2011

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