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

+ W.P.(C) 7781/2011

BABLI

..... Petitioner

Through: Mr. L.B.Rai & Ms. Suman, Advocates

versus

MEDICAL SUPRINTENDENT & ORS.

..... Respondents

Through: Mr. B.V. Niren, Advocate for R-1/UOI

CORAM:

HON'BLE MR. JUSTICE SUNIL GAUR

ORDER

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01.11.2011

CM No.17611/2011 (u/S 151 CPC)

Exemption allowed subject to all just exceptions.

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1. In the first round of litigation, petitioner had assailed order of 03.03.2011 of the Estate Officer passed under Sub- Section (i) of Section 5 of Public Premises (Eviction of Unauthorised Occupants) Act, 1971 and the Appellate Court vide order of 01.04.2011 found the aforesaid order of the Estate Officer to be bad in law, as reasonable opportunity of being heard was not afforded.

2. Upon remand, the Estate Officer vide order of 10.03.2011

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had ordered eviction of the petitioner from quarter No. S-III/64/65 DIZ Area, New Delhi.

3. A statutory appeal was preferred against the aforesaid order of 10.03.2011 but without any success.

4. In the impugned order of 29.09.2011, the facts of this case stands noted in detail and it is also noted that the record of this case was perused. It was imperative to do so, because the order of the Estate Officer of 10.03.2011 was non-speaking one.

5. At the hearing, learned counsel for the petitioner vehemently assailed the impugned order on the ground that the Estate Officer has passed the eviction order of 10.03.2011, which is a non-speaking order and this aspect has been over-looked in the impugned order and so, this petition deserves to be allowed and this matter ought to be remanded back to the Estate Officer for decision afresh with directions that reasons be given.

6. A bare perusal of the impugned order reveals that it is quite detailed one and it sufficiently notes the facts of this case and the reason for eviction of the petitioner from the premises in question is the active concealment of a material fact i.e. of non-disclosure that the petitioner had been debarred from allotment of government accommodation.

7. Instead of harping upon the issue of order of the Estate Officer of being non-speaking one, petitioner's counsel was called

upon to show as to what is the error apparent in the impugned order which is a reasoned one. No error in the impugned order could be pointed out by petitioner's counsel. However, it was urged on behalf of the petitioner that the fact of concealment of petitioner being debarred from allotment of government accommodation is actually incorrect. Was this a ground taken before the Appellate Court or in the writ petition was the question posed to the petitioner's counsel, which he was unable to answer. Though it was argued that opportunity to lead evidence was not granted but it has not been so urged in the writ petition and was neither urged before the Appellate Court. It is not petitioner's case that she was unaware of being declared ineligible for allotment of Government accommodation.

8. In this view of the matter, finding no substance in this petition, the same is dismissed, with no orders as to costs.

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Dismissed as infructuous.


(SUNIL GAUR)
JUDGE

NOVEMBER 01, 2011

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