

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

+ **W.P.(C) 706/2013**

% **Judgment dated 21st May, 2013**

GOPAL KRISHAN DHIR AND ORS Petitioner

Through: Mr.Maninder Singh, Sr. Advocate with
Mr.V.L. Madan, Advocate

versus

NEW DELHI MUNICIPAL COUNCIL AND ORS..... Respondent

Through: Mr.Manoj Kumar Singh, Advocate

CORAM:

HON'BLE MR. JUSTICE G.S.SISTANI

G.S.SISTANI, J. (Oral)

1. Petitioners were licensees of their respective shops at the Gole Market, New Delhi for more than four decades. Proceedings under sections 5/7 of the Public Premises Eviction of Unauthorised Occupants Act (for short, 'PP Act') were initiated before the Estate Officer. An eviction order was passed, which was upheld in the appeal under Section 9 by the District Additional Judge. Writ petitions filed, also stand dismissed.
2. The petitioners thereafter filed an LPA which was also dismissed, however, the order of the Single Judge was modified. In the present writ petition, the petitioners have prayed as under:

“i. Orders and directions in the nature of writ of Mandamus/ Certiorari, or any other appropriate Writ, directing the respondent no.1/ NDMC to not to evict forcibly with police-aid, without disposing off the representation of the petitioners, as given to NDMC on May 10th, 2012 and communicating the decision thereupon to the petitioners; and

- In the alternative -

Orders and directions in the nature of Writ of Mandamus/ Certiorari, or any other appropriate Writ directing the

respondent no.1/ NDMC to allow sufficient time to the petitioners to gracefully withdraw from their respective shops; and

ii. Orders and directions in the nature of Writ of Mandaums / Certiorari, or any other appropriate Writ, directing the respondent no.1/ NDMC to first take a decision on the aspect of the future user of the Central Structure of Gole Market, before asking the petitioners to exercise their option of choice of shops; and

iii. Orders and directions in the nature of Writ of Mandamus / Certiorari, or any other appropriate Writ, directing the respondent no.1/ NDMC to provide the requisite parameters and inputs for each shop being offered to the petitioners and to charge a reasonable license fee, as is being charged from the occupants of the shops in the neighbourhood of the shops being offered.”

3. Counsel for the petitioners submits that by the modification of the order of the Single Judge, the Division Bench has directed that in case the respondent, NDMC decides to again allot the said premises / shops for commercial purposes, preference of allotment is to be made to the petitioners.
4. It is the case of the petitioners that the sole purpose for seeking eviction of the petitioners was to convert the Gole Market, which is heritage building, into a museum. It is submitted that under the garb of a heritage building the user of the building cannot be changed, which would mean that a commercial building cannot be converted into a museum, as the building bye-laws do not permit conversion of commercial property into museum. It is also submitted that even the NDMC is yet to take a firm stand in the matter as to whether the building is to be converted into a museum or whether after renovation it is to be used for commercial purposes. Hence, it is submitted that no purpose would be achieved by displacing the petitioners and then allotting the same space to the petitioners, as directed by the Division Bench.

5. Strong reliance is placed by counsel for the petitioners on the Minutes of Meeting which took place on 10.4.2013 with the Hon'ble Minister of Housing and Urban Poverty Alleviation and the minutes of which were circulated on 18.4.2013. It is submitted by counsel for the petitioners that the Hon'ble Lieutenant Governor is still seized of the matter and a status quo order has been passed, thus the petitioners should not be evicted in haste when the NDMC itself is undecided with respect to the fate of Gole Market.
6. It is next submitted that the order of the Single Judge has not been complied with in the letter and spirit, as in the concluding paragraph of the judgment the Single Judge had directed the NDMC not to evict the petitioners till the representation was decided.
7. It is also submitted that the notice issued by the NDMC on 4.5.2012 is not in conformity with the directions of either the Division Bench or the Single Judge, as the NDMC has only offered commercial units/ offices, as per the list which was annexed on the basis of specified rate of licence fee or for allotment of space at Dwarka Mor, but no offer has been made to the petitioners for allotment at Gole Market complex which can be used only for commercial activity and not for a museum.
8. It is further submitted that even in case the Gole Market is a heritage building the user of the heritage building cannot be changed and it is to be used for commercial activities for which it was constructed as it is the mandate of the building bye-laws.
9. Counsel for the respondent has opposed this petition on the ground that the grounds raised in this writ petition stand already decided by a Single Judge of this court by a decision rendered on 5.3.2012 and the LPA filed against the aforesaid order also stands dismissed.
10. It is submitted that the present writ petition is gross abuse of the

process of court and has been filed only with a view to delay the handing over of possession of the shops to the respondents, despite the petitioners having been unsuccessful before the Estate Officer, Additional District Judge, Single Judge of the High Court and before the Division Bench. It is further submitted that the licence of the petitioners was validly terminated and the proceedings were initiated under the P.P. Act. The order of eviction has been passed, which has been upheld even up to the Division Bench of this court.

11. It is contended that the petitioners being licencees whose licence stand validly terminated do not have any right, title or interest in the shops in question and there is no link between the user of the Gole Market to the fate of the petitioners.
12. It is thus contended that the order of the Division Bench as also the order of the Single Judge has simply granted concession in favour of the petitioners. As per the directions of the Single Judge, the NDMC was to decide their representation before taking possession. The Division Bench has only clarified that in case the respondent, NDMC decides to again allot the said premises for commercial purposes, preference in the matter of allotment would be given to the petitioners, subject to licence fee at the commercial rate and compliance of other terms as may be laid by the NDMC. It is thus contended that handing over of possession and a decision for user of the Gole Market cannot be linked. It is also contended that in case the NDMC decides to convert the building as a museum then no offer can be made to the petitioners, however, in case the market is re-developed for commercial purposes as and when such a decision is taken or it is re-developed, the order of the Division Bench would be complied with.
13. Counsel for the respondent also submits that the Minutes of Meeting held

in the office of Lieutenant Governor cannot be read in favour of the petitioners, as only the submission of the petitioner has been recorded therein.

14. I have heard counsel for the parties and considered their rival submissions. Order of the District Judge was challenged by way of filing a batch of writ petitions, which were disposed of by a Single Judge of this court by a judgment dated 5.3.2012. The petitioners are shop-keepers at the Gole Market, licences of the shops were not renewed by the NDMC, proceedings were initiated under the Public Premises Eviction of Unauthorised Occupants Act, order of eviction was passed by the Estate Officer, the appeal filed against the order of the Estate Officer was also dismissed by the Additional District Judge and the cancellation / non-renewal of licence deeds was upheld by the Single Judge. Relevant portion of the judgment of the Single Judge dated 5.3.2012 reads as under:

“28. Finding that the allotment of the shops in question was more than ten years prior to their cancellation, it has to be held that the License Deeds in question had come to an end by efflux of time, with no further renewals, rendering applications of petitioners for renewal meaningless. Such an eventuality was anticipated as Petitioners themselves avers that Gole Market was conceived in the 1920s as an inward looking market to act as a subsidiary market of Connaught Place and the original allottees were the licensees in the shops in question for last many decades. With the passage of time, need arose for renovation of Gole Market. Redevelopment/ renovation of Gole Market round about shopping complex as heritage building necessitated relocating the petitioners, as is evident from Communication of 23rd August, 2007 (Annexure P-9) of the respondent, as already noticed above.

29. In this view of the matter, the plea of petitioners of discrimination being meted out by respondent- NDMC, by drawing reference to other shop keepers of Yashwant Place, New Delhi etc. is of no avail. Respondent- NDMC in its

counter affidavit has brought it on record that once project of renovation of Gole Market is complete the same will not be put to commercial use and its proposed use is for building a museum at Gole Market, which will depict development of New Delhi area. Shifting of the shops in question from the Gole Market area is also well justified in view of the traffic congestion around it, as stands highlighted by the traffic police in its Communication of 15th November, 2007 (Annexure R-1) of the counter affidavit, which deserves notice. It reads as under:-

“From traffic point of view, it is imperative that the flow of traffic within the rotary should be uninterrupted, so that there is proper entry from and exit into the feeder roads. There should not be any parking around the roundabout, which is very common at present owing to a lot of commercial activities around the Gole Market area. No commercial activity should be allowed in the rotary as it leads to a lot of parking on the main carriageway of the roundabout and also generates movement of pedestrians as well as entry of heavy/light commercial vehicles. Thus, it is important that there should not be any movement of pedestrians across the main rotary for the sake of safety of pedestrians and the flow of traffic should be uninterrupted in the rotary.”

30. In the scenario as noted above, plea of the petitioners of legitimate expectation, mala fides and invocation of doctrine of election is rendered meaningless and the decisions relied upon by the petitioners become inapplicable to the facts of the instant matters.

31. Having concluded that there could not have been renewal of the License Deeds beyond the period of ten years, petitioners except Shahabuddin Qureshi and Sunil Kumar cannot be heard to say that there is any violation of the Guidelines of the year 2002, as the arbitrary use of powers to evict genuine tenants is clearly ruled out in these matters. Rather in all fairness, relocation of the shops in question was offered to the petitioner who had not consented to it but later on during the pendency of these matters, many of the petitioners vide Resolution of 2nd December, 2009, had

expressed willingness to accept the alternate site offered by the respondent- NDMC. Be that as it may. This aspect cannot be subject matter of consideration in these matters arising out of proceedings under the Public Premises (Eviction of Unauthorised Occupants) Act, 1971.

32. Taking the case of petitioners at its best, even if it is assumed that petitioners had subsisting right of renewal of License Deeds, when their licenses were cancelled, still they had lost it on account of their failure to seek remedy to enforce it. Section 61 of The Indian Easements Act, 1882 mandates that License can be determined expressly or impliedly. Terms of License deeds in question specifically provided that License is terminable at any time and licensor is under no obligation to justify the termination of License deeds in question. The ground reality which cannot be lost sight of, is that termination of License deeds in question was otherwise also justified to make way for setting up of museum at this site i.e. for public interest and so private interests have to yield to the public interest. Petitioners cannot plead ignorance about it as they were well aware of their re-location and when they had refused, respondent NDMC was left with no option except to termination of the licenses in question. If this is not disclosed in the notice under Public Premises (Eviction of Unauthorized Occupants) Act, 1971, petitioner suffers no prejudice and impugned eviction cannot be faulted with, on this account.

33. In the preceding paragraphs, it already stands concluded that eviction of petitioners – Shahabuddin and Sunil Kumar is justified, so their petitions merit dismissal. Regarding remaining petitioners also, conclusion arrived at in afore-going paragraphs is that termination of their License Deeds was neither vitiated by discrimination nor any arbitrariness or colorable exercise of power under the Public Premises (Eviction of Unauthorized Occupants) Act, 1971.

34. In the ultimate, the only conclusion which can be reasonably drawn is that there is no manifest lacuna or palpable error in the impugned order, which is indeed reasoned one i.e. sound on facts and law. Consequentially, while upholding the impugned order, I dismiss these petitions with no order as to costs. Consequently, pending applications are disposed of as rendered infructuous.

35. Before parting with this order, in the retrospect, I do

find that the petitioners had been short sighted in not accepting respondent's offer of re-location. Respondent-NDMC is called upon to sympathetically consider petitioners' case for re-location in terms of its Communication of 23rd August, 2007 (Annexure P-9) if vacant shops are available in the different NDMC markets including DMRC shopping complex located close to Dwarka Mor Metro Station, (as per affidavit of 10th December, 2009 of the General Manager of Delhi Metro Rail Corporation Ltd. on record). This is being so said in view of the willingness to accept alternate sites expressed through Resolution of 2nd December, 2009 by most of the petitioners, as its copy has somehow come on record alongwith Index bearing date of 3rd December, 2009.

36. These petitions are disposed of with liberty to the petitioners to seek re-location from the respondent- NDMC within a period of two weeks and if it is so done, then it is expected that the respondent- NDMC would take decision thereon within a period of four weeks. In the peculiar circumstances of this case, the execution of the impugned eviction order be kept in abeyance by respondent- NDMC till such applications received from the petitioners are dealt with promptitude. In case no applications are received from the petitioners for re-location within two weeks from today, then the respondent- NDMC shall execute the eviction orders forthwith."

15. The judgment of 5.3.2012 was challenged by the petitioners by filing LPAs which were dismissed as withdrawn on 30.3.2012, wherein the following order was passed :

"1. We have heard the counsels for the parties at length. We do not find any infirmity in the impugned order dated 5th March, 2012 passed by the learned Single Judge in the writ petitions preferred by the appellants.

2. At this stage, the learned counsels for the appellants state that they will not press these appeals in case the direction contained in para 36 is suitably amended / modified. In para 36 of the impugned judgment the learned

Single Judge has given liberty to the appellants to seek re-location from the respondent NDMC by making representations within two weeks. A direction is also given to the respondent NDMC to take decision on such representation within four weeks thereafter. The eviction orders are ordered to be kept in abeyance till the time the respondent NDMC takes decision on the representations made by the appellants. We are informed that all the appellants have already made representations. Mr. Harish Malhotra, Sr. Advocate for the appellants submits that as per the NDMC, the premises in question in occupation of the appellants are located are needed by the respondent NDMC for the purpose of museum; that in case the respondent NDMC wants to again allot these premises for commercial purpose, preference should be given to the appellants. This request is quite reasonable having regard to the facts of these cases. The same is acceptable to the counsel for the respondent NDMC as well.

3. We accordingly give an additional direction that in case the respondent NDMC decides to again allot the said premises for commercial purpose, preference in the matter of allotment shall be given to the appellants herein, subject to payment of license fee at market rate and compliance of other terms as may be laid by NDMC or as may be best offered to NDMC.

4. It is further directed that the decision on representation of the appellants shall be communicated to the appellants save for the aforesaid, the appeals are dismissed as withdrawn.”

16. The main thrust of argument of learned senior counsel appearing for the petitioners are that the Division Bench has noticed that the NDMC requires the premises for the purposes of a museum, however, in case the NDMC wants to again allot these premises for commercial purposes preference would be given to the petitioners. This suggestion was duly accepted by the counsel for the NDMC. It has also been contended that

the premises cannot be converted into a museum, in view of the building-by-law, as under the garb of a heritage building, the user of the building cannot be changed and thereafter the shops at Gole Market itself should be offered to the petitioners.

17. Secondly, the NDMC itself has not taken a final decision in the matter, as to whether the premises are to be converted into a museum or it is to be re-developed as a commercial building. It is also the case of the petitioner that the Minutes dated 18.4.2013 would also show that the Lieutenant Governor is seized of the matter and a status quo order has been passed.
18. Another argument which has been raised by learned senior counsel for the petitioner is that no suitable arrangement has been made for the rehabilitation of the petitioners and till such time the alternate sites are allotted to them as per their requirements, the petitioners cannot be evicted. As far as the second argument is concerned, reliance is placed on the paragraphs 35 and 36 of the judgment of the Single Judge, which has been reproduced above, that till such time a decision is taken on the representation of the petitioners, the impugned order of eviction is to be kept in abeyance by the NDMC.
19. Learned senior counsel for the petitioner has also drawn the attention of the court to a notice dated 4.5.2012 issued by the NDMC by which commercial premises were offered to them. It is contended that the notice is not in conformity with the directions of the Division Bench. A perusal of the notice of 4.5.2012 would show that this notice could not have been issued in terms of the directions of the Division Bench for the reasons that the NDMC is yet to decide as to whether the premises are to be re-developed for commercial purposes or to be converted into a museum. Paragraph 3 of the decision of the Division Bench has simply directed that in case the NDMC decides to again allot the said premises for commercial

purpose, preference in the matter of allotment would be given to the petitioners, subject to the payment of licence fee at the market rate and compliance of other terms as may be laid by the NDMC. In view of this direction it is abundantly clear that there is no time limit fixed for the NDMC to take such a decision and secondly handing over of possession has nowhere been linked with the conversion of the premises into a museum or a commercial market place.

20. The notice of 4.5.2012 would show that commercial units/ shops which were being constructed by the DMRC at Dwarka Mor were offered to the petitioners in the year 2007, which were declined by them. In this notice of 4.5.2012 the following offers were made:

“Now therefore the Competent Authority has decided that the following two courses of action shall be open to each of the petitioner:

1. They may apply for allotment of any of the commercial units/ office premises mentioned in the enclosed list on “as is where as basis” at the specified rate of licence fee.

OR

2. They may approach DMRC under intimation to NDMC for allotment of space at Dwarka Mor, NDMC shall facilitate the allotment.

Kindly intimate the option you choose to exercise by 11-05-2012. In case you choose the first option, you may inspect the premises from dt. 07-05-2012 to 10-05-2012 between the hours of 10:00 a.m. to 3:00 p.m. and giving 3 choices preference wise specifying the unit number. In case there are more than one application for seeking allotment of a particular unit the allotment shall be decided through draw of lots.”

21. During the course of hearing a grievance was made by the petitioners that the queries raised by them in their communication of 10.5.2012 were not been addressed and further no details of the area, user and other terms and conditions have been provided to the petitioners. On 18.4.2013 this court has passed the following order:

“Primarily three arguments have been addressed by Mr. Harish Malhotra, learned senior counsel for the petitioner. Counsel for the petitioners submitted that the earlier writ petition filed by the petitioners stands disposed of by an order dated 5.3.2012 and in appeal filed by the petitioner the order was modified to the limited extent that in case the old market structure is not converted into museum but is used for commercial purposes, the petitioners would also be entitled and preference would be given to them for allotment of shops.

The first submission of counsel for the petitioners is that no details, such as area, the use of those shops and other terms and conditions, have been provided with regard to the shops which have been offered to the petitioners. The second submission of counsel for the petitioners is that the petitioners should be granted concession having regard to the fact that they are being displaced after more than 50 years. Thirdly till the petitioners be put into possession before they are dispossessed.

Counsel for the respondent no.1 submits that the controversy sought to be raised today had already been put at rest by the order of 5.3.2012, which has been upheld by the Division Bench of this Court. Counsel for respondent no.1 also submits that the writ petition filed by the petitioners was dismissed, however, the learned Single Judge called upon the NDMC to give a sympathetic consideration to the petitioners' case for re-location, if vacant shops are available in different NDMC markets including DMRC Shopping Complex located close to Dwarka Mor Metro Station. Counsel for respondent no.1 next submits that the offer, in compliance of the order, has been made to the petitioners but no satisfactory response has been received.

It is agreed between the parties that the shops which had been offered by the NDMC would be made available for inspection of the petitioners. The inspection will be carried out 20.4.2013 and

22.4.2013 between 10:00 a.m. and 5:00 p.m. on both the days. On 20.4.2013 the shops of the NDMC will be inspected by the petitioners and on 22.4.2013 the shops at the DMRC Shopping Complex located close to Dwarka Mor Metro Station, will be inspected by the petitioners.

Mr.Singh counsel for the NDMC assures the Court that the queries raised by the petitioners, as per their communication dated 10.5.2012 and more particularly in paragraphs 3 to 5 of the said communication will also be addressed/ replied within three days, so that there is clarity to the petitioners with regard to their obligations.

List on 25.4.2013.

Interim order to continue.”

22. After passing of the order the offices/ shops were inspected by the petitioners. On another suggestion being made by counsel for the petitioner with regard to the availability of shops in DMRC Complex at Bhai Vir Singh Marg, this court had requested the NDMC to enquire as to whether the DMRC can offer shops in the DMRC complex at Bhai Vir Singh Marg to the petitioners. Counsel for the respondent has handed over a communication dated 13.5.2013 received from the DMRC in court today, which reads as under:

“No.DMRC/Land/15/428/277

Dated : May 13, 2013

Shri R.S. Godbole
Director (Estate-I), NDMC
Palika Bhawan,

Parliament Street,
New Delhi -110 001

Sub: Feasibility of allotment of shops in DMRC Complex at
Bhai Vir Singh Marg.

Ref: Your letter No.D/797/S.O. (Estate-I) /2013 dated
09.05.2013.

Sir,

Kindly refer to above, the matter has been examined in DMRC. It is not feasible to offer 29 Shops/ units to the Gole Market shopkeepers in Bhai Vir Singh Marg Shopping Complex (existing & upcoming).

Existing shops were constructed for rehabilitation of Shopkeepers at Panchkuian Road and allotted to them. Upcoming shopping complex is being constructed developers after bidding process, who have the right to lease out these shops in open market. Shopkeepers accommodated on upper floors in the existing furniture market are to be provided shops in Ground Floor of upcoming complex as per Hon'ble High Court order, however, DMRC shall have to hand over the Shops so vacated on upper floors to the developers, as per contract entered with them. Thus, DMRC has no right to allot any shops in the upcoming / existing shopping complex at Bhai Vir Singh Marg. A copy of Note received from CE/ PD, DMRC in this regard, is enclosed pl.

Thanks you,

Yours faithfully,

(P.S. Chauhan)"

23. It may also be pointed out that the NDMC answered all the queries raised by the petitioners with regard to the area, terms and conditions of the shops offered vide communication dated 4.5.2012.
24. In my view since the respondents had issued a notice of 4.5.2012 to the petitioners and also during the pendency of the petitioner under the directions of this court, the shops offered to them were inspected and the suggestions made by the petitioner with regard to the shops at Bhai Vir Singh Marg having been considered, the respondents have complied with the directions contained in the order of the Single Judge dated 5.3.2012.
25. It may also be noticed that the NDMC was directed by the Single Judge to deal with the representation of the petitioners with promptitude, however, there was no direction that till shops are allotted, the petitioners would not be evicted. The respondents have offered shops to the petitioners,

however, the petitioners have not taken a final decision in the matter. It may also be noted that NDMC has given a detailed reply to the representation of the petitioners, pursuant to the order passed by this court. The reply contains the details of the alternate shops, shop numbers, covered area, carpet area, floor at which the shop is located, year of construction, maintenance charges and reserve licence fee.

26. The first submission of counsel for the petitioner is that as per the order of the Division Bench, the respondents have failed to make an offer to the petitioners for the same shops, as a museum cannot be made at the Gole Market. There is no force in this submission, as the offer is to be made only if a final decision is taken by the NDMC to re-develop the Gole Market for commercial purposes.
27. There is also no force in the submission that the Hon'ble Lieutenant Governor has directed the NDMC to maintain status quo. The minutes of meeting recorded reads as under :

“Sub: Brief minutes of the meeting with Hon'ble Minister for Housing, Urban & Poverty Alleviation at 36 Mahadev Road held on 10.04.2013.

Hon'ble Minister for Housing, Urban & Poverty Alleviation Sh.Ajay Maken had requested for a meeting and called on the Hon'ble LG at 36 Mahadev Road on 10th April, 2013 at 09:30 hrs. Following two issues were discussed.

- a) To maintain Status quo of the Gole Market.
- b) Quick action by the Rehabilitation Committee to settle claims of the genuine evictees at Basaidara Pur.
- a) To maintain Status-quo of the Gole Market:
Representatives from Gole Market Vyapaar Mandal accompanied the Hon'ble Minister and submitted an Appeal-cum-Memorandum to the Hon'ble LG on the issue of continuation of shops in the Gole Market by NDMC. It was submitted that there was no formal resolution of the NDMC

with regard to setting up a 'Museum' in the premises. They appealed to the Hon'ble LG that while the government recognized Gole Market as a Heritage building, the 'activities' and 'functions' which have been traditionally carried out by the shopkeepers also constitute an aspect of 'Heritage Preservation'. The shopkeepers had been constrained to approach Delhi High Court which has issued stay orders against NDMC on the subject. After discussions with the representatives and the Hon'ble Minister, Hon'ble LG stated that he would seek a report in the matter from the Deptt. of UD, GNCTD and consider the issue appropriately."

28. A perusal of the Minutes would show that to maintain status quo was a request of the petitioners / the Minister and was not a decision. There is no finding by the Hon'ble Lieutenant Governor of Delhi as to whether a museum is to be set up at Gole Market or not. The minutes only records the submissions of the representatives of Gole Market Vyapaar Mandal and the fact that Lieutenant Governor after discussing with the representatives and with the Hon'ble Minister had stated that he would seek a report in the matter and consider the issue appropriately. Thus to say that the Lieutenant Governor has ordered the status quo in the matter is a complete mis-reading of the minutes. Having heard the counsel for the parties and the communications placed on record, I am of the view that no relief can be granted to the petitioners. At this stage learned senior counsel for the petitioners submits that this order may not be construed as to put finality to the issue, which is pending before the Hon'ble Lieutenant Governor. Counsel for the petitioners also submits that this order should not come in the way of the Hon'ble the Lieutenant Governor to decide the matter, which is pending before him.
29. The directions of the Single Judge have been complied with, as the representations of the petitioners have been considered, alternate shops

were offered and the inspections have been allowed.

30. As far as the directions of the Division Bench are concerned, the petitioners cannot derive any benefit at this stage, as the petitioners have made it abundantly clear that in case the NDMC decides to again allot the said premises for commercial purposes, preference would be given to the petitioners, and such a decision has not yet been taken.
31. The court cannot lose track of the fact that the basic issue in the writ petition was challenge to the order of the Additional District Judge which arose on account of the proceedings initially initiated under the P.P. Act, wherein it has been held that the licences of the petitioners have been rightly terminated. The Single Judge found no prejudice or fault in the impugned eviction order and also not found that there was discrimination, arbitrariness or colourable exercises of power under the P.P. Act and the writ petitions were accordingly dismissed.
32. In my view the present writ petition is also an attempt to delay in handing over of possession of the shops, which cannot be permitted in the facts of this case. Accordingly, the writ petition is dismissed. Interim order is vacated. No order as to costs.
33. At this stage learned counsel for the petitioner submits that the petitioners are willing to furnish an undertaking to this Court that they will handover vacant peaceful possession of the shops in question to the respondent on or before 30.06.2013. Counsel for the respondents submits that in case an unconditional undertaking is filed time for vacating the shops by the petitioners may be extended up to 30th June 2013.
34. List on 22.05.2013.

G.S.SISTANI, J.

MAY 21, 2013//ssn//