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

+ **W.P.(C) 7356/2015**

% ***Judgment dated 4th August, 2015***

DELHI DEVELOPMENT AUTHORITY Petitioner
Through : Mr. Rajiv Bansal, Senior Standing
Counsel with Mr. Arush Bhandari,
Advocate

versus

RAKESH BHATNAGAR Respondent
Through : Mr. Naresh Kaushik, Advocate

CORAM:

HON'BLE MR. JUSTICE G.S.SISTANI

HON'BLE MS. JUSTICE SANGITA DHINGRA SEHGAL

G.S.SISTANI, J (ORAL)

1. Present writ petition has been filed by petitioner/Delhi Development Authority (hereinafter referred to for short as "DDA") being aggrieved by the order dated 23.07.2015 passed by the Central Administrative Tribunal (hereinafter referred to for short as "*Tribunal*") in O.A.No.2655/2015, whereby the Tribunal while issuing notice in the application granted stay against any further action by the petitioner in pursuance of the letters dated 13.5.2015 and 23.6.2015.
2. Learned counsel for the petitioner submits that the Tribunal has failed to consider that the OA filed by the respondent herein is not maintainable in view of the settled position of law as decided by the Supreme Court of India in the case of *Union of India v. Rasila Ram & Ors.*, reported at

(2001) 10 SCC 623 and Division Bench judgments of this Court in the case of *Smt. Babli & Anr. v. Govt. of NCT of Delhi & Ors.*, reported at 95(2002) DLT 144(DB) and *UOI & Ors. v. Dr. Jagdish Saran*, 2005(84) DRJ 690(DB) and the order passed by the Tribunal itself. Further the jurisdiction of the Tribunal is barred under Section 9 of the Act as also in terms of OM dated 3.11.1993.

3. Learned counsel for the petitioner submits that eviction proceedings against the respondent are still pending adjudication before the Estate Officer. Counsel further submits that vide letter dated 23.6.2015 the petitioner requested the respondent to vacate the public premises and pay license fee and the penal rent upto the date of actual vacation, failing which eviction proceedings would be continued. Counsel further submits that the respondent thereafter filed O.A.No.2655/2015 before the Tribunal seeking to quash/ set aside the impugned orders/letters issued by the DDA on 13.5.2015 and 23.6.2015, wherein while issuing notice the Tribunal stayed the further proceedings in pursuance of the letters dated 13.5.2015 and 23.6.2015.
4. We have heard counsel for the parties. It is agreed that the proceedings before the Estate Officer shall continue with leave to the respondent to seek such remedy as may be available to him in accordance with law. As far as the objection of the petitioner herein with regard to maintainability of the O.A. is concerned, we request the CAT to decide the preliminary issue with regard to the maintainability of OA on 21.08.2015 (date of 6.8.2015 stands cancelled, as jointly prayed) while taking into account the judgments passed by the Hon'ble Supreme Court of India, the Division Bench of this Court and the earlier judgment of CAT itself.
5. With these observations, the writ petition is disposed of.

CM.APPL Nos.13524/2015(stay) & 13526/2015(direction)

6. In view of the order passed in the writ petition, the applications stand disposed of accordingly.

G.S.SISTANI, J

SANGITA DHINGRA SEHGAL, J

AUGUST 04, 2015

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