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

Date of Decision: 01.09.2015

+ LPA 588/2015 & C.Ms.No.17820/2015 (*stay*),17821/2015(*addl.docs.*)

AERO CLUB OF INDIA PVT LTD & ANR Appellants

Through: Mr.Parag P.Tripathi, Sr.Adv. and
Mr.Ravi Sikri, Sr.Adv. with Mr.Saket Sikri,
Ms.Ekta Sikri, Adv.

Versus

UNION OF INDIA & ANR Respondents

Through: Ms.Anjana Gosain, Adv. with
Ms.Nidhi Mohan Parashar, Adv. and Mr.Bharat
Arora, Adv. for R-1.
Mr.Digvijay Rai, Adv. for R-2/AAI.

CORAM:

HON'BLE THE CHIEF JUSTICE

HON'BLE MR. JUSTICE JAYANT NATH

Ms.G. ROHINI, CHIEF JUSTICE (ORAL)

1. The petitioners in W.P.(C) No.8183/2015 are the appellants.
2. By the order under appeal dated 27.08.2015, the learned Single Judge directed notice in the main writ petition as well as CM No.17117/2015 filed for interim stay of the orders impugned in the writ petition, returnable on 03.12.2015.
3. It is contended by Shri Parag P. Tripathi, the learned Senior Counsel appearing for the appellants/writ petitioners that the learned Single Judge, in the facts and circumstances of the case, is not justified in declining to grant the interim order to the appellants/petitioners. The learned Senior Counsel submits that in the absence of an interim order protecting the interest of the

petitioners till the disposal of the writ petition, the petition itself would be rendered infructuous.

4. We have also heard Ms. Anjana Gosain and Shri Digvijay Rai, the learned counsels appearing for the respondent Nos.1 and 2 respectively.

5. The appellant No.2/petitioner No.2 (Delhi Flying Club Pvt. Ltd.) has been in occupation of Hangar, annexes, garages, flying club building and etc., of Safdarjung Airport, now vested with respondent No.2 (Airports Authority of India), in terms of the agreement entered into between the Civil Aviation Department and the appellants.

6. Alleging that a sum of Rs.8,19,14,595/- is due from the appellant No.2 towards arrears of rent for the space occupied by it as on 31.05.2015, recovery proceedings have been initiated by the Eviction Officer, Airports Authority of India in exercise of the powers conferred under Section 28(G)(4) of the Airports Authority of India Act, 1994. That apart, on the basis of the instructions dated 17.07.2015 under which all the Regional Executive Directors of the respondent No.2 were directed to raise bills on Flying Clubs for the area under their occupation, a demand notice dated 05.08.2015 was issued by the respondent No.2 calling upon the appellant No.2 to clear the outstanding licence fee of Rs.8,30,31,076/- on or before 31.08.2015 failing which the occupation of appellant No.2 would be treated as unauthorized and action would be initiated for eviction.

7. The appellants/writ petitioners dispute the demand made by the respondent No.2 contending that the demand of exorbitant amounts by the respondent No.2 on the basis of the unilateral revision of licence fees made by it is illegal and unsustainable. It is also the specific case of the

appellants/writ petitioners that in terms of the letter dated 09.10.2012 of the Under Secretary to Govt. of India the recovery of the amounts allegedly due has been kept in abeyance until the policy is finalized by the Ministry of Civil Aviation regarding the eligibility criteria for Category-I Flying Clubs for availing the facility of nominal rates for various charges payable to the respondent No.2. Hence, W.P.(C) No.8183/2015 has been filed to quash the proceedings of the respondent No.2 dated 17.07.2015 as well as the consequential demand notice dated 05.08.2015 apart from seeking stay of the recovery proceedings before the respondent No.3.

8. By the order under appeal, the learned Single Judge adjourned the main writ petition as well as the petition for stay to 03.12.2015 for completion of the pleadings observing that since the proceedings before the Eviction Officer, Airports Authority of India are pending, no ground for stay of proceedings before the Eviction Officer is made out at that stage.

9. It is no doubt true that the larger issues regarding the liability of the appellants/petitioners for the amounts allegedly due and the validity of the demands and the recovery proceedings initiated by the Airports Authority of India can be decided only after the pleadings in the petition are completed. However, having regard to the tenor of the demand notice dated 05.08.2015, particularly, in view of the fact that the third respondent has been proceeding with the matter on merits and by order dated 26.08.2015 the matter has been adjourned to 10.09.2015, we find force in the submission of the learned Senior Counsel for the appellants that the appellants would stand suffer to irretrievable injury unless interim protection is granted till the disposal of the writ petition.

10. In the facts and circumstances of the case, we therefore, deem it appropriate to dispose of the appeal with the following directions:

- (i) The counter affidavits in the writ petition be filed by all the respondents within two weeks from today. The rejoinder by the writ petitioners, if any, be filed within two weeks thereafter.
- (ii) The date fixed in W.P.(C) No.8183/2015 by the order under appeal as 03.12.2015 shall stand cancelled and the petition be listed before the learned Single Judge on 06.10.2015. We request the learned Single Judge to dispose of the writ petition expeditiously.
- (iii) Till such time, the status quo obtaining as of today shall be maintained with regard to the orders impugned in the writ petition subject to the appellant No.1 depositing Rs.2 crores with the respondent No.2/Airports Authority of India within two weeks from today. The said deposit shall be subject to the outcome of the writ petition.

Appeal is accordingly disposed of.

CHIEF JUSTICE

JAYANT NATH, J

SEPTEMBER 01, 2015

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