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

\+ **W.P.(C) 9627/2015, Cav. No. 1070-71/2015 & CM No. 22823/2015**

**Date of decision : 9th October, 2015**

DELHI RAIL KARAMCHARI CO-OPERATIVE GROUP HOUSING SOCIETY LTD ..... Petitioner

Through: Mr. Sachin Batra, Adv.

versus

STATE OF DELHI & ORS. ..... Respondent

Through: Mr. Pankaj Vivek, Adv. for R-5/caveator

Mr. Gautam Narayan, ASC for R-1, 2, 3, 6 & 7

**CORAM:**
**HON'BLE MS. JUSTICE GITA MITTAL**
**HON'BLE MR. JUSTICE I.S.MEHTA**

**Judgment (Oral)**

**Gita Mittal, J**

**Caveat Nos.1070-71/2015**

We have heard counsel for the caveator. Caveat notice is accordingly discharged.

1. The petitioner has assailed orders dated 16th July, 2015 passed by the Financial Commissioner, Delhi in a Review Petition No. 32/2013 and the order dated 26th August, 2015 passed by the SDM, Punjabi Bagh. The grievance of the petitioner is that without adjudication on the contentions of the petitioner, the Financial Commissioner has permitted the private respondents to approach the RCS for execution of the impugned order dated 9th August, 2012 and as a result thereof, the petitioner has been illegally dispossessed.

2. We are further informed that not only the main matter but the petitioner's application seeking stay of the impugned orders is still pending.

3. We have heard learned counsel for the parties before us. The private respondent no. 5 is also present who informs us that the respondent no. 5 has been put in possession of the flat pursuant to the execution of the order dated 9th August, 2012. Be that as it may, the petitioner cannot be denied hearing on merits in the review petition filed by it. Also the first application of the petitioner was admittedly pending consideration before the Financial Commissioner. In this background, interest of justice would merit if the respondent no. 5 preserves the property so that relief can be appropriately moulded at the stage of final consideration, in case the Financial Commissioner aggress with the petitioner-society.

In view of the above, we direct as follows :-

(i) The petitioner is given liberty to place the contentions made by way of the present writ petition before the Financial Commissioner in the pending Review Petition No. 32/2013.

(ii) The Financial Commissioner shall consider all matters on merits and pass an appropriate considered order, in any case, within a period of eight weeks from today uninfluenced by the execution of the order dated 9th August, 2012.

(iii) The respondent no. 5 shall maintain status quo with regard to title and possession of the premises during the pendency of the Review Petition and shall abide by the outcome thereof.

(iv) The respondent no. 5 shall not be permitted to claim creation of equity in his favour on account of execution of the order dated 9th August, 2012.

(v) The challenge of the petitioner to the order dated 26th August, 2015 is not being considered hereby in view of the orders being recorded by us today. It is left open for consideration in an appropriate matter.

This writ petition and application are disposed of in the above terms.

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**GITA MITTAL, J**

**I.S.MEHTA, J**

**OCTOBER 09, 2015**
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