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

Date of decision: 05.08.2016

+ W.P.(C) 2280/2016 & CM No.9819/2016 (*stay*)

GANGA JAMUNA SARASWATIPetitioner

Through : Mr. M. Hussain, Advocate.

versus

UNION OF INDIA & ORS.Respondents

Through : Mr. Ripu Daman Bhardwaj, CGSC
with Mr. T.P. Singh and Mr. Sahaj, Advocates for
R-1/UOI.

Mr. Vikramaditya for Mr. Sanjoy Ghose, ASC for
R-2/GNCTD.

Mr. Dhanesh Relan with Ms. Akshita Manocha,
Advocates for DDA.

CORAM:

HON'BLE THE CHIEF JUSTICE

HON'BLE MS. JUSTICE SANGITA DHINGRA SEHGAL

MS. G. ROHINI, CHIEF JUSTICE (ORAL)

1. The petitioner claims to be a society registered under the Societies Registration Act.
2. The present petition has been filed as a Public Interest Litigation alleging that several licensees who are running shops on the lands allotted by the Delhi Development Authority at Janakpuri are continuing in possession in spite of the expiry of the period of licence without even paying the licence fees. It is also alleged that the occupants/licensees in

collusion with the officials of DDA are also making attempts to convert them into freehold shops. The petitioner therefore prays to direct the respondent Nos.1 to 3 to take immediate steps to recover possession of all such shops belonging to DDA where the licence has already expired and also to recover damages from them for the period of wrongful occupation.

3. It is pleaded in the petition that the petitioner had earlier filed W.P.(C) No.3143/2012 raising the very same issue of unauthorized occupation of the land belonging to DDA and the inaction on the part of the authorities in recovering the possession and the said writ petition was disposed of by order dated 03.10.2012 with a direction to the respondents therein to take a decision one way or the other as to whether the licensees who are in occupation should be granted lease or not within a period of three months. Since the respondents failed to take any action within the stipulated time, the petitioner preferred Cont. Cas. (C) No.692/2013. By order dated 09.09.2013, the said Contempt Case was disposed of by this Court placing on record the statement of the counsel for the respondents that the Ministry of Urban Development will take a decision within four weeks of receipt of the final recommendations from the DDA. The petitioner had also filed Cont. Cas. (C) No.511/2014 alleging that DDA failed to take back possession from the illegal occupants and the same was disposed of by order dated 15.12.2014 taking note of the fact that the respondent had already taken a decision to auction the shops on the basis of reserved licence fees depending upon the size and location.

4. The grievance of the petitioner is that in spite of the above orders, the illegal occupants are still continuing in possession of the shops. Pursuant to our order dated 11.05.2016, a status report has been filed on behalf of respondent No.3/DDA stating *inter alia* that out of 70 units the licence period of 68 units came to an end and the shopkeepers have requested for either grant of extension of license period or for grant of freehold status. Thereafter, the Ministry of Urban Development vide order dated 06.12.2013 advised the respondent No. 3 for auction of these shops wherein the existing licensee shall have the right of first refusal. After several representations against the auctioning of the shops, the matter was again submitted for reconsideration by the Ministry for giving permanent rights to the existing licensees at fair market price which could be arrived at by Price Fixation Committee of the respondent No.3. While explaining that the last meeting convened by DDA with the representatives of Janak Place Market Association was held on 03.09.2015 in which it was represented by the Association to permit clearing the outstanding dues, it is stated -

“4. That in view of the above, the matter is again submitted for reconsideration of the earlier decision of MoUD to give permanent rights to the licensees through auction of these properties and instead permanent rights may be awarded at fair market price which could be arrived at by Price Fixation Committee of DDA by taking into consideration Zonal Varient Rates and market price given by private empanelled valuers.

5. That DDA has written letters dated 7.8.15, 18.12.2015 and 15.3.2016 to the Ministry of Urban Development for reconciliation of their advice given earlier vide letter dt.

06.12.2013 regarding conversion from license to freehold of shops in Janak Place, Distt Centre, Janak Puri, New Delhi. Since no reply is received another letter is being written in this context. As and when the reply of the ministry is received, the same will be informed to the Hon'ble Court.”

5. As could be seen, the issue of conversion of licences into freehold is under consideration by the respondent No.1/Ministry of Urban Development and a final decision on the matter is yet to be taken.

6. The issue of extension or conversion of shops allotted on licence basis to freehold status being a matter of policy to be decided by the respondent No.1/Ministry of Urban Development, in our considered opinion the interference by this Court at this stage is not warranted.

7. We, therefore, consider it appropriate to dispose of the writ petition with a direction to the respondent No.1 to take an appropriate decision in accordance with law regarding the issue of extension or conversion of shops as expeditiously as possible. Such decision shall also be communicated to the petitioner and if aggrieved, the petitioner is at liberty to institute fresh proceedings before the proper forum.

8. Writ petition as well as CM No.9819/2016 are accordingly disposed of.

CHIEF JUSTICE

AUGUST 5, 2016//gr//

SANGITA DHINGRA SEHGAL, J