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

+ **W.P.(C) 2035/2016**

M/S PROMINENT HOTELS LIMITED

..... Petitioner

Through: Mr. Sandeep Sethi and Mr.
Sudhanshu Batra, Sr. Advs. with Mr.
Piyush Kalra, Mr. Arvind Nayar, Mr.
Sanad K. Jha and Mr. Devesh Kumar
Tripathi, Advs.

Versus

NEW DELHI MUNICIPAL COUNCIL

..... Respondent

Through: Mr. Sri Harsha Peechara and Mr.
Mananjay Kumar Mishra, Advs.

CORAM:

HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW

ORDER

% **09.03.2016**

CM No.8764/2016 (for exemption)

1. Allowed, subject to just exceptions.
2. The application is disposed of.

W.P.(C) 2035/2016 & CM No.8763/2016 (for stay)

3. The petition, (i) impugns the demand dated 29th February, 2015 of the respondent New Delhi Municipal Council (NDMC) of Rs.140.20 crores from the petitioner towards arrears of licence fee with respect to property known as Hotel Connaught, Connaught Place, New Delhi; (ii) seeks a mandamus to the respondent NDMC to correctly adjudicate the dues of

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licence fee in accordance with the order dated 18th May, 2001 of this Court in Suit No.610/2000 titled ***C.J. International Hotels Vs. New Delhi Municipal Council*** and which is reported as 2001 (60) DRJ 562.

4. The counsel for the respondent NDMC appears on advance notice.

5. The said property has been the subject matter of the judgment dated 11th September, 2015 of this Court in RFA No.78/2014 titled ***New Delhi Municipal Council Vs. Prominent Hotels Ltd.*** and SLPs No.32021-32024/2015 preferred whereagainst were dismissed *in limine* on 23rd November, 2015.

6. On a reading of the petition, it is found that the proceedings before the Estate Officer for eviction of the petitioner from the said premises and for recovery of dues from the petitioner are pending consideration.

7. I have thus enquired from the counsel for the respondent NDMC appearing on advance notice, as to what will be the effect of non-compliance by the petitioner of the demand contained in the letter dated 29th February, 2016 *supra*.

8. The counsel for the respondent NDMC states that the demand made therein is already subject matter of the claim before the Estate Officer and the coercive / recovery steps shall be taken in accordance with the finding of the Estate Officer.

9. The senior counsel for the petitioner also agrees that the demand at this stage does not serve any purpose.

10. The senior counsel for the petitioner however contends that the petitioner had represented to the respondent NDMC for determination of the

dues in accordance with the judgment of this Court in the matter of **C.J. International Hotels** supra but the demand contained in the letter dated 29th February, 2016 is inconsistent therewith.

11. However, on enquiry, as to how this Court can go into the said aspect, if the matter is for adjudication before the Estate Officer, the senior counsel for the petitioner states that the said question be left open for decision by the Estate Officer.

12. The counsel for the respondent NDMC contends that the said plea of the petitioner has already been adjudicated and negated in the judgment aforesaid of this Court and it is now not open to the petitioner to urge the same before the Estate Officer.

13. I find that this Court in judgment dated 11th September, 2015 had directed the proceedings before the Estate Officer to be concluded within six months therefrom. The said period of six months has nearly expired but the proceedings are still pending consideration.

14. On enquiry, it is informed that the property though is in possession of the petitioner but no business activity is being carried on therefrom, owing to the licences having been withdrawn / cancelled. The senior counsel for the petitioner however contends that the term of the licence of the property of the petitioner is valid for another 67 years.

15. In these circumstances, though disposing of the petition recording the aforesaid, I deem it appropriate to direct the proceedings before the Estate Officer to be taken on a day to day basis and to be positively concluded on or before 31st May, 2016. Both parties are directed not to take any

adjournments before the Estate Officer and the Estate Officer to positively comply with the directions as hereby issued.

16. As far as the plea of the petitioner of the licence fee being determined in accordance with the directions contained in the dicta of this Court in ***C.J. International Hotels*** is concerned, all that can be observed is that it will be open to the petitioner to urge all contentions to contend so before the Estate Officer and it will be open to the respondent NDMC to contend that the said plea has already been decided and has attained finality and cannot be re-opened now.

No costs.

RAJIV SAHAI ENDLAW, J.

MARCH 09, 2016

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