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

*Date of Decision: 05.04.2016*

+ LPA 228/2016

M/S FORTUNE GRAND  
MANAGEMENT PVT LTD

..... Appellant

Through: Mr.Amit Sibal, Sr.Adv. with  
Mr.P.S.Bindra, Mr.Anant Kr.Agarwal, Adv.

Versus

DELHI TOURISM & TRANSPORTATION  
DEVELOPMENT CORPORATION

..... Respondent

Through: Mr.R.K.Dhawan, Adv. with Ms.Richa  
Dhawan, Mr.Teng, Adv.

**CORAM:**

**HON'BLE THE CHIEF JUSTICE**

**HON'BLE MR. JUSTICE JAYANT NATH**

**ORDER**  
**05.04.2016**

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**CHIEF JUSTICE (ORAL):**

1. This appeal is preferred against the order dated 18.03.2016 in CM No.9964/2016 in W.P.(C) No.588/2016. The writ petitioner is the appellant before us.
2. The said writ petition was filed with a prayer to quash the proceedings initiated by the respondent herein/Delhi Tourism and Transportation Development Corporation under Section 4 of Public Premises (Eviction of Unauthorized Occupants) Act, 1971 pending before the Estate Officer. After hearing both the parties, the learned Single Judge reserved the judgement in the writ petition.
3. Thereafter, the petitioner/appellant herein filed CM No.9964/2016 seeking stay of the proceedings before the Estate Officer till the judgment in

W.P.(C) No.588/2016 is delivered alleging that the Estate Officer has been proceeding without awaiting the judgment of this Court. By the order under appeal, the learned Single Judge had merely adjourned the said application to 02.05.2016 to enable the respondent to file its response observing that no case is made out for grant of *ex parte* stay of proceedings before the Estate Officer.

4. The said order dated 18.03.2016 is assailed in the present appeal contending *inter alia* that unless the proceedings before the Estate Officer are stayed, W.P.(C) 588/2016 in which the judgment is reserved would become infructuous.

5. We have heard Sh.Amit Sibal, the learned Senior Counsel appearing for the appellant/writ petitioner as well as Sh.R.K. Dhawan, the learned Advocate who appeared on advance notice on behalf of the respondent.

6. As could be seen from material available on record, the appellant/writ petitioner had initially filed O.M.P.(I)(COMM.) No.59/2015 under Section 9 of Arbitration and Conciliation Act, 1996 (for short 'the Act') seeking stay of the operation of the letter dated 03.12.2015 issued by the respondent terminating the Licence Agreement. The said petition was disposed of by this Court by order dated 08.02.2016 with directions as under:

"20. The order in the said matter is already reserved. Counsel for the petitioner is agreeable that in the proceedings of Public Premises, the liberty be granted to the petitioner to raise all objections in accordance with law and the petitioner be permitted to appear and argue the matter for which the counsel for the respondent has no objection.

21. In view of the above said discussion and circumstances, the present petition is disposed of with the direction to the respondent to restore the premises in terms of the Local

Commissioner report after removing the unauthorized construction as agreed except removing the roof of the kitchen within a period of two weeks for which the petitioner has paid Rs.14.65 Lacs. The respondent shall assist the representative of petitioner in the said process.

22. For the said purpose, keys deposited in Court be given to the respondent by the Registry forthwith. The respondent shall give the keys to the petitioner for due compliance after 2 weeks and without any further delay.

23. The petitioner shall run the premises strictly in terms of the agreement executed between the parties.

24. As far as the disputes between the parties would be adjudicated on merit and without any influence of the order passed in the present petition by the appropriate Forum i.e. the Arbitrator or the Estate Officer, the same would be subject to decision in Writ Petition (Civil) No.588/2016.

25. The present petition is accordingly disposed of with the above directions."

7. The appellant herein/writ petitioner had also filed W.P.(C) No.2039/2016 challenging the order of the Estate Officer dated 23.02.2016 rejecting the objection as to appointment of the Estate Officer under Section 4 of the Act alleging that he is biased and personally interested. The said writ petition was disposed of by order dated 09.03.2016, which reads as under:

"Learned counsel for petitioner states that respondent No.2 while dismissing the petitioner's application has not dealt with the allegations made against him.

Since admittedly this ground has been taken in W.P.(C) 588/2016, this Court is of the opinion that no useful purpose would be served by entertaining the present writ petition.

Accordingly, present writ petition and application are disposed of with a direction that the impugned order would abide by the

judgment in W.P.(C) 588/2016 as and when it is delivered."

8. Admittedly, CM No.9964/2016 came to be filed thereafter on 15.03.2016 seeking stay of the proceedings before the Estate Officer till the judgment reserved in W.P.(C) No.588/2016 is delivered.

9. As mentioned above, the said application has been adjourned to 02.05.2016 for the reply of the respondent and it was observed by the learned Single Judge that "no case for grant of *ex parte* stay of proceedings before the Estate Officer is made out".

10. We have already taken note of the two orders passed by this Court, namely, order dated 08.02.2016 in O.M.P.(I) (Comm.) No.59/2015 filed under Section 9 of the Arbitration and Conciliation Act, 1996 and the order dated 09.03.2016 in W.P.(C) No.2039/2016. In the order dated 08.02.2016, it was made clear by this Court that the further orders that may be passed by the Estate Officer would be subject to the decision in W.P.(C) No.588/2016 whereas in the order dated 09.03.2016 in W.P.(C) No.2039/2016, this Court directed that the order impugned therein, i.e., the rejection of the objection raised as to the appointment of the Estate Officer would abide by the judgment in W.P.(C) No.588/2016 as and when it is delivered.

11. In the light of the said orders, the apprehension of the Appellant that the main writ petition itself would be rendered infructuous unless the proceedings before the Estate Officer are stayed appears to be without any basis. The learned Single Judge was therefore justified in holding that there is no need for grant of any *ex parte* order of stay of proceedings before the Estate Officer.

12. We therefore consider it appropriate to dispose of the appeal with a direction that the order, if any, passed by the Estate Officer shall be subject to the decision in W.P.(C) No.588/2016. This shall be without prejudice to the contentions of the parties in CM No.9964/2016 which stands posted to 02.05.2016.

13. The appeal is accordingly disposed of.

Order dasti under the signatures of the Court Master

**CHIEF JUSTICE**

**JAYANT NATH, J**

**APRIL 05, 2016**

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