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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ LPA 242/2016, C.M. APPL.13504-13507/2016

M/S PROMINENT HOTELS LIMITED Appellant
Through : Sh. Mohan Parasaran, Sr. Advocate with
Sh. V. Giri, Sr. Advocate, Sh. PRadeep Ranjan
Tiwary, Sh. Ashwin Kumar D.S., Sh. Prafulla
Ranjan Tiwary and Sh. Devamani Mishra,
Advocates.

versus

NEW DELHI MUNICIPAL COUNCIL Respondent
Through : Sh. Sanjay Jain, ASG with Sh. Vipul. G,
Sh. Akash Nagar, Ms. Pallavi Shali and Ms.
Natasha Thakur, Advocates.

CORAM:
HON'BLE MR. JUSTICE S. RAVINDRA BHAT
HON'BLE MS. JUSTICE DEEPA SHARMA

ORDER
% **08.04.2016**

The appellant's grievance is that the learned Single Judge, while dismissing its writ petition, challenging a Show Cause Notice which demanded ₹140.20 crores (towards alleged arrears of license fee) has foreclosed the right to contest the correctness of such figure. The appellant had instituted a suit on the file of the Civil Court seeking *inter alia* a declaration that the terms contained in the license fee deed (of license) issued by the New Delhi Municipal Council (NDMC) were unconscionable and void. The suit was initially decreed. The NDMC's appeal was allowed. In review proceeding, i.e. R.P. No.448/201 in RFA 78/2014 – *NDMC v. M/s. Prominent Hotels*

Limited, the appellant had in fact given up the claim that the terms of the license deed were unconscionable and, therefore, unenforceable.

It was urged that the learned Single Judge, in not interfering with the impugned Show Cause Notice implicitly endorsed it and this has prejudiced the appellant's claim that the demand for ₹140.20 crores was unfounded having regard to the terms agreed to which are enforceable in law.

This Court has heard the learned ASG who appeared for NDMC on advance notice and submitted that the rights of the parties to contend whatever is permissible in law, including the appellant's right to contest the correctness and validity of the amount demanded, i.e. ₹140.20 crores, has in no way been foreclosed. Likewise, the jurisdiction of the Estate Officer (EO) to consider and render decision on the merits of such demand is also not foreclosed. In order to allay any such apprehension, it is clarified that on both aspects, the EO shall consider and hear the parties and render a reasoned order. All rights and contentions of parties are expressly reserved. It goes without saying that nothing in this order shall be construed as an expression on the merits of the issues to be decided by the EO. The appeal is disposed of in the above terms.

Order dasti.

S. RAVINDRA BHAT, J

DEEPA SHARMA, J

APRIL 08, 2016/ajk