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

+ W.P.(C) 5840/2016

M/S SAINI GENERAL STORE Petitioner
Through: Mr. A.C.P. Gautam and Mr. Anand
Saxena, Advs.

versus

THE STATE (GOVT. OF NCT OF DELHI) THROUGH
DEPUTY LABOUR COMMISSIONER (SOUTH)
& ORS

..... Respondents

Through: Mr. Siddhartha Shankar Ray and
Mr. Abhik Kumar, Advs.

CORAM:

HON'BLE MR. JUSTICE V. KAMESWAR RAO

ORDER

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14.07.2016

W.P.(C) 5840/2016

This is a Petition challenging the order dated 29th August, 2014 of the Authority under the Delhi Shops and Establishment Act, 1954.

It is noted from the order that the same was an ex-parte order inasmuch as it is recorded in the impugned order of the authority that the summons along with the copy of the claim was forwarded to the petitioner through speed post with a direction to appear in the Court to reply the claim. It is the contention of the learned counsel for the petitioner that no summons were received by the petitioner.

Noting the abovesaid submission, this Court had directed the counsel

for the respondent no.1 to produce the relevant record.

Learned counsel for respondent no.1 has produced the record and has shown the summons which were issued to the petitioner. Same were dispatched through a speed post on 13th January, 2014 and the date of hearing was 21st September, 2014. That apart there are no averments in the writ petition that summons were not received by the petitioner.

In the absence of such foundation in the writ petition, drawing a presumption that the summons having been sent through speed post at the correct address, the summons deemed to have been delivered to the petitioner.

That apart, the first ground of challenge to the impugned order is that the respondent No.1 Authority could not have taken cognizance of the claim petition without the sanction of the Chief Inspector in view of Sections 36 and 45 of the Act. The said plea needs to be rejected. A perusal of Section 45 would show that the same relates to cognizance of offence under the provisions of the Act, Rules or Order. The claim of the respondents 2 to 5 is under Section 21 of the Act for wages and making of such a claim, would not attract the provisions relatable to “offence”.

Insofar as the plea that they are not the employees nor they have been

appointed for the development of the shop except two persons namely Moolchand and Madhuresh who have been engaged for renovation of the house is concerned, such a plea is not available to the petitioner at this point of time, having not appeared before the Authority concerned to put forth its case. In fact, I note, there is a contradiction in the stand of the petitioner, inasmuch as in para III, it is stated that Moolchand has no concern with the petitioner while in para IV, it is stated that the respondent (sic.) do not know the claimants except Moolchand and Madhuresh. That apart, the petitioner has not denied the receipt of demand letter dated July 15, 2013 sent on behalf of the respondents 2 to 5, to which it appears no reply was sent.

In view of the aforesaid, this Court is of the view that the impugned order does not call for any interference. The petition is dismissed.

CM. No. 24027/2016

Dismissed as infructuous.

V. KAMESWAR RAO, J

JULY 14, 2016/jg