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

+ W.P.(C) 8570/2010

BESTLAY GOODS TRANSPORT CORPORATION REGD.

..... Petitioner

Through Mr. D.K. Sharma, Adv.
versus

MCD & ANR.

..... Respondent

Through Mr. Ajjay Arora and Mr .Kapil Dutta,
Advts for MCD.

CORAM:

HON'BLE MS. JUSTICE INDERMEET KAUR

ORDER

% **22.08.2016**

The petitioner before this Court is *Bestlay Goods Transport Corporation*. The averments in the writ petition disclose that the proposal for setting up a transport nagar was mooted in the year 1976 and several applicants including the petitioner had registered themselves in the year 1976 itself. In 1986, a survey was carried out and the petitioner was found functioning as a transport company at 6-B, Qutub Road, Delhi which had initially been allotted to Attar Chand Juneja s/o Prem Dass Juneja. On 27.12.1986, the petitioner was allotted a plot at AG-60, Sanjay Gandhi Transport Nagar. He had thereafter stopped all objectionable activities from premises No. 6-B, Qutub Road and accordingly he was surprised when on 20.08.2010 he received a notice asking him why the transport activities have not stopped at the aforementioned place i.e. at 6-B, Qutub Road. The contention of the petitioner is that since no objectionable activity was being carried out from the said premises, this order dated 12.10.2010 is liable to be quashed.

The respondent Corporation has filed a counter affidavit. Contention is that an alternate plot has been granted to the petitioner on 27.12.1986 which has been admitted by the petitioner himself which is AG-60, Sanjay Gandhi Transport Nagar and in this view of the fact, he has no authority to retain the alternate plot i.e. 6-B, Qutub Road; it is liable to be surrendered.

Attention has been drawn to an earlier order passed by this Court on 27.11.2014. It reads herein as under:-

“Since in the present case petitioner has accepted alternative plot at Sanjay Gandhi Transport Nagar, the existing premises bearing No. 6-B, New Qutub Road, Delhi has already been sealed by the respondent-Corporation.

List the matter on 12th January, 2015 for arguments on the issue as to whether the land in occupation of the petitioner at New Qutab Road has to be surrendered or not to the respondent-Corporation.

The petitioner shall also be entitled on the next date of hearing to urge that if the land is not to be surrendered to respondent-Corporation, then it is entitled to run any other business after obtaining permission from respondent-Corporation. ”

This order clearly stipulates that the petitioner has accepted the alternate plot at AG-60, Sanjay Gandhi Transport Nagar. 6-B, New Qutub Road now stands sealed. This order also specifies that the petitioner will be entitled (if the land is not surrendered) to urge that he is entitled to run any other business from the aforementioned place.

Learned counsel for the petitioner submits that the flat in question i.e. 6-B, Qutub Road is a residential flat and the petitioner

was not running any transport business from there; the alternate plot which had been granted to him at AG-60, Sanjay Gandhi Transport Nagar is not in lieu of 6-B, Qutub Road.

This submission has been countered.

Record does not substantiate the submission of the learned counsel for the petitioner. Record substantiates the submission of the respondent. The stand of the respondent is clear from the application dated 30.09.1976 signed by Attar Singh Juneja (father of the petitioner) which show that *Bestlay Goods Transport Corporation* (of whom Attar Singh Juneja was the partner) had his occupational address at 6-B, New Qutub Road, Delhi. This undertaking of Attar Singh Juneja (admittedly signed by Attar Singh Juneja, father of the petitioner) reads herein as under:-

“The undersigned hereby apply for the registration of plot in the Municipal Transport Nagar as per above on the clear understanding that mere registration does not confer on us any right for securing.

The decision of the Commissioner, MCD with reference to the cost of plot and the number of the to us will be final and binding upon us. I/we shall not claim any interest upon the earnest money herewith and will abide by all the terms and conditions as may be prescribed by the MCD.”

Legal notice dated 17.08.1990 signed by Rajeev Kumar Tiwari, Advocate on behalf of *Bestlay Goods Transport Corporation* (perused and returned from the original file of the Department) also clearly states that *Bestlay Goods Transport Corporation* is registered at flat

No. 6-B, New Qutub Road, Delhi and is functioning from there. This document coupled with the application of Attar Singh Juneja himself (30.09.1976) wherein Attar Singh Juneja had admitted that *Bestlay Goods Transport Corporation* is carrying on its occupation from 6-B, New Qutub Road (admittedly signed by Attar Singh Juneja) clearly falsifies the case of the petitioner. It does not now lie in the mouth of the petitioner to state that the alternate plot granted to him at Sanjay Gandhi Transport Nagar was not in lieu of his accommodation which he was having at 6-B, New Qutub Road. His submission that this is a residential flat is not borne out from the record. His residence was at H-63, Rajouri Garden and this is clear from his own document i.e. a partnership deed dated 19.10.1995 (page 251-C of the paper book) evidencing a partnership between Attar Singh Juneja and his sons wherein his residential address has been shown as H-63, Rajouri Garden. It was from these premises (6-B, New Qutub Road) that *Bestlay Goods Transport Corporation* was carrying out its business and an alternate plot already having been given to him at Sanjay Gandhi Transport Nagar on 27.12.1986 (as is clearly averred in the writ petition) does not entitle the petitioner to retain this flat at 6-B, New Qutub Road. This flat be handed over to the Corporation forthwith.

There is no merit in this petition. It is dismissed with costs quantified at Rs.10,000/-.

INDERMEET KAUR, J

AUGUST 22, 2016/A