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

+ LPA 441/2016

Date of Decision : 08.08.2016

SUBHASH CHAND SINDHI

.....Appellant

Through : Mr. Ajay Jain with Ms. Aastha Chopra
and Mr. Shaswat, Advocates.

Versus

DTIDC & ANR.

.....Respondents

Through : None.

CORAM

HON'BLE THE CHIEF JUSTICE

HON'BLE MS. JUSTICE SANGITA DHINGRA SEHGAL

: Ms. G. ROHINI, CHIEF JUSTICE (Oral)

CM NO. 28295/2016 (exemption)

Allowed, subject to all just exceptions.

LPA 441/2016

1. This appeal is preferred against the order of the learned Single Judge dated 28.07.2016 in W.P.(C) No.6260/2016. The said writ petition which was filed with a prayer to set aside the notice dated 18.07.2016 issued by the respondent/Delhi Transport Infrastructure Development Corporation Ltd. (DTIDC) calling upon the writ petitioner to vacate the shop Site-A, Anand Vihar ISBT, New Delhi as well as the tender notice issued by DTIDC for all 60 shops at ISBT, Anand Vihar was disposed of by the learned Single Judge by the order under appeal dated 28.07.2016 holding as under:-

"13. At this stage, learned counsel for the petitioner, under instructions from the petitioner, who is present in the Court,

submits that since the petitioner has been running the shop for several years and has made huge investments, he would require three months time for the purpose of disposal of existing stocks and re-location. He submits that the petitioner would not press the present petition if the petitioner is granted time till 31.10.2016 to vacate and handover the peaceful, vacant possession of the said premises by 31.10.2016. He further submits that the petitioner has not participated in the tender and if for any reason, the tender process is cancelled/annulled and fresh tenders are invited, the petitioner may be given an opportunity to participate.

14. In view of the above, the petition is disposed of with a direction to the petitioners to file, within a period of one week, undertaking before this Court, in the form of an affidavit, undertaking that the petitioner shall vacate and hand over peaceful vacant possession of the shops in his possession to the respondents on or before 31.10.2016. The petitioner shall undertake not to sublet, assign or part with the possession of the said shop or any part thereof. He shall also undertake that he shall continue to pay the user and occupation charges, till he hands over the peaceful and vacant possession, at the same rate at which the licence fee was paid till 31.03.2016. He shall also continue to comply with the other terms and conditions of their licences.

15. Subject to the petitioner filing the undertaking in the above terms, the respondent shall not take any coercive steps against the petitioner till 31.10.2016. In case the petitioner fails to file the undertaking within the period of one week, no benefit of this order would be available to him.

16. It is further clarified that only if the tender process is cancelled/annulled and fresh bids are invited by the respondents, the petitioner would also be entitled to

participate in the tender and that also if the petitioner satisfies the other terms and conditions of the Notice Inviting Tender.

17. The writ petition stands disposed of in the above terms."

2. We have heard the learned counsel for the appellant. As could be seen from the material available on record, the writ petitioner/appellant herein was allotted shop No. 28, Dhaba Block, ISBT, Complex, Kashmiri Gate vide allotment letter dated 21.11.1989 and was entitled to continue with the shop every year on renewal basis on enhanced rent as per policy dated 10.11.1993. In the year 2000 the appellant was allotted Shop No.2, ISBT, Anand Vihar, New Delhi, in lieu of Shop No. 28, Dhaba Block, ISBT, Kashmiri Gate, Delhi, on account of Metro Rail Transport System Project. In the year 2007 the respondent vide letter dated 02.11.2007 on account of Metro Construction at ISBT, Anand Vihar, allotted the appellant site 'A' in lieu of his earlier Shop No.2, ISBT, Anand Vihar, New Delhi on payment of the license fee subject to the following conditions:-

- (i) That a temporary structure shall be constructed by the licensee at his own cost.
- (ii) That the period of license shall be for 11 months to be reckoned from the date of handing over the vacant possession.
- (iii) That the allotment is temporary in nature and the licensee shall be bound to surrender the shop immediately whenever required for the re-development of Inter State Bus Terminal.

3. Thereafter, the appellant was continued on temporary license basis which was extended from time to time, the last extension being upto 31.03.2016. The impugned notice dated 18.07.2016 came to be issued by the respondent calling upon the appellant to vacate the premises on or before 31.07.2016 and to hand over the peaceful possession to the concerned Estate Manager of DTIDC stating that his license period has expired and that DTIDC is proposing to issue a tender notice for grant of fresh license. Aggrieved by the same, the appellant filed W.P.(C) No.6260/2016 contending *inter alia* that as per the allotment letter dated 02.11.2007, the respondents are bound to continue the petitioner at the same location till re-development of the shop at ISBT, Anand Vihar takes place. On the other hand, it was contended on behalf of the respondents that since the original license expired long back and thereafter the petitioner was continued only on temporary basis, the clause that the licensee would be continued till the re-development work takes place, is not applicable.

4. The learned Single Judge did not express any opinion on the rival submissions since the petitioner himself had come out with a proposal that if he is granted time till 31.10.2016 to vacate and hand over the peaceful and vacant possession of the premises, he would not press the writ petition. Thus, the writ petition came to be disposed of by the order under appeal directing the respondents not to take any coercive steps against the petitioner till 31.10.2016 provided an undertaking is filed by the petitioner that he would vacate the premises on or before 31.10.2016. As is evident from paras 13 to 17 of the order under appeal which are extracted above, the writ petition came to be disposed of with the consent of both the parties. Therefore, it is not open to the

petitioner/appellant now to assail the said order and the appeal is liable to be dismissed on that ground itself.

5. Even on merits, we do not find any justifiable reason to interfere with the order under appeal for the following reasons.

6. Admittedly, the license for operation of the shop was granted to the appellant for a period of 11 months only. Though the license was renewed from time to time, while granting renewal for the period from 18.10.2015 to 31.03.2016, it was made clear by the respondents by letter dated 16.10.2015 that the said renewal is subject to the condition that beyond 31.03.2016 no renewal of license will be made under any circumstances. By the said letter, the appellant was also called upon to comply with certain conditions which included execution of a license agreement on a non-judicial stamp paper worth Rs.100/- within 10 days of the issue of the said letter failing which it will be presumed that the appellant is not interested in renewal of license and necessary proceedings to get the licensed premises vacated would be commenced without further notice.

7. It is not in dispute that the appellant/writ petitioner failed to comply with the above condition. Instead, he suggested amendments to the agreement and allowed the renewed period of lease to lapse. If the appellant wished to renew his license he should have executed the Agreement as per the terms and conditions of the respondent within the requisite period. Having failed to do so he cannot on his own suggest amendment to the terms beyond the stipulated period.

8. On a combined reading of the terms and conditions of the License Agreement, it also appears to us that there was no promise by the respondent to continue the appellant/writ petitioner till re-development of ISBT. Therefore, the contentions of the appellant invoking the doctrine of promissory estoppel are misconceived and untenable.

9. For the aforesaid reasons, the appeal is devoid of merit and the same is accordingly dismissed.

CHIEF JUSTICE

SANGITA DHINGRA SEHGAL, J

AUGUST 08 , 2016/gr