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

+ **W.P.(C) 6902/2016**

RAJENDER PRASAD SHARMA Petitioner
Through Mr.M.S.Bammi, Mr. Arvind Sharma,
Mr. Mukul tomar, Advocates

versus

**THE COMMISSIONER, EAST DELHI MUNICIPAL
CORPORATION & ORS**

..... Respondents
Through Mr.Rajan Tyagi, Addl. Standing
Counsel along with Mr. K.P.Sharma,
AE for R-1.

CORAM:

HON'BLE MS. JUSTICE INDERMEET KAUR

ORDER

% **08.08.2016**

C.M. No.28327/2016 (exemption)

Exemption is allowed subject to just exceptions. Application disposed of.

W.P.(C) 6902/2016

Petitioner is aggrieved by the fact that his shop in property no.641/Defendant No.1, Loni Road, Ram Nagar, Shahdara, Delhi which he had taken on rent from erstwhile owner (but thereafter Shubham Jain- respondent no.3 is stated to have purchased this property). Contention is that there is a civil dispute pending between petitioner and respondent no.3 and this action of the Department has been taken at the behest of respondent no.3.

This position is vehemently denied by learned counsel

appearing for the respondent-Corporation. His submission is that in the Master Plan and lay out plan there is no property by the name of 641/D-1 but there is a property by the name of 641/D-2. His further submission is that this property as per the record is owned by respondent no.3. Additional submission being that notice has been given to respondent no.3 before his property was sealed. On a query put to the learned counsel for the respondent on this count, he submits that this notice was given in July, 2015. The action of the Department sealing shop was taken on 22.7.2016.

Learned counsel for the petitioner to support his submission that he is admittedly running a tea stall and the same is the whole bread and butter of the petitioner has placed certain documents (which are certain conversion charges and other documents which are all of admittedly after October, 2015).

Learned counsel for respondent on this count submits that these documents are self assessment documents that have been taken and they do not vest any interest in favour of the petitioner.

Be that as it may, it is not in dispute that petitioner was running a tea stall from the property; whether it was 641/D-1 or 641/D-2 is controverted by both the parties but the admitted position nevertheless is that a tea stall was being run by the petitioner to earn his livelihood. The addition point which the learned counsel for the respondent points out is that the impugned order is appealable before the ATMCD and the petitioner should approach the Appellate Body. This Court is of the view that the petitioner must approach the ATMCD to get his grievance addressed.

In this background and keeping in view the scenario that the petitioner was running a tea stall in the property, the respondent shall de-seal the shop of the petitioner forthwith within two days from today. No coercive steps will be taken up against the petitioner till next 15 days within which the petitioner has to approach the ATMCD and to obtain appropriate order, if any, and the ATMCD shall pass orders uninfluenced by any observation made in this petition.

Petition disposed of.

Order dasti under signatures of the Court Master.

INDERMEET KAUR, J

AUGUST 08, 2016

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