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

+ CM(M) 959/2016 & CM Nos.35296-35297/2016

RAJU SAH

..... Petitioner

Through

Mr.Harish C.Pant, Adv.

versus

ESTATE OFFICER

..... Respondent

Through

Mr.Anil Panwar, Adv.

CORAM:

HON'BLE MR. JUSTICE JAYANT NATH

ORDER

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26.09.2016

CM No.35297/2016 (Exemption)

Exemption allowed, subject to all just exceptions.

CM(M) 959/2016 & CM Nos.35296/2016

1. The petitioner has today placed on record supporting documents. A perusal of the documents show that after the Eviction Order was passed by the Estate Officer, the petitioner preferred an appeal which was pending before the Additional District Judge, New Delhi. On a petition filed before this Court, this court on 13.5.2016 in CM(M)473/2016 had noted an undertaking by the Estate Officer that the petitioner will not be evicted, till the disposal of the appeal filed before the Additional District Judge.

2. It transpires now that the petitioner has erroneously filed the appeal PPA No.82/2015 before the District & Sessions Judge, Delhi, not against the order of eviction passed by the Estate Officer but against the order of cancellation dated 26.6.2015 which was an order issued by the Directorate of Estate cancelling the allotment in favour of the petitioner. Accordingly,

the petitioner withdrew the said appeal and has now filed a fresh appeal seeking to impugn the order of the Estate Officer.

3. The relevant portion of the order dated 13.5.2016 passed by this Court reads as follows:-

“It has been brought to the notice of the Court that the petitioner stood evicted by an order of the Estate Officer on 26.06.2015 against which the petitioner has preferred an appeal which is now pending before the Additional District Judge, New Delhi.

On advance notice, learned counsel for the respondent/Estate Officer has put an appearance. He undertakes not to evict the petitioner till the disposal of the appeal.”

4. Keeping in view the above order already passed by this Court and in view of the facts and circumstances, it is in the interest of justice that the same directions continue to apply in the freshly filed appeal filed by the petitioner subject to the condition that the concerned Additional District Judge who is hearing the appeal would be at liberty to modify or vacate the said interim order, as per law. Accordingly, the respondent may not enforce the order of the Estate Officer; subject to above.

5. Petition stands disposed of.

6. A copy of this order be given Dasti under signatures of the Court Master to counsel for the petitioner.

JAYANT NATH, J

SEPTEMBER 26, 2016

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