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

+ W.P.(C) No. 10424/2015

JYOTI NANDA

..... Petitioner

Through: Mr. Kedar Nath Tripathy and Mr.  
Alakh Alok Srivastava, Advs.

Versus

NEW DELHI MUNICIPAL COUNCIL

..... Respondent

Through: Ms. Malvika Trivedi and Mr. Jitendra  
Kr. Tripathi, Advs. for NDMC.

**CORAM:**

**HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW**

**ORDER**

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**28.01.2016**

1. The petition seeks a mandamus to the respondent New Delhi Municipal Council (NDMC) to grant renewal of the health/trade license for the business of restaurant with allied items of food, cold drinks, etc. in shop no.5/90, P-Block, Connaught Circus, New Delhi in the tenancy of petitioner, without asking for No Objection Certificate (NOC) from the landlords.
2. Though the petition has been listed earlier on three occasions and notice thereof has not been issued but the counsel for the respondent NDMC has been appearing on advance notice and appears today also.
3. The petitioner relies upon *Allied Fruits & Florists Pvt. Ltd. Vs. NDMC* 180 (2011) DLT 60 and appeal whereagainst was dismissed vide judgment reported in *Neelam Chopra Vs. M/s. Allied Fruits & Florists Pvt. Ltd.* 2014 I AD (Delhi) 82 *inter alia* holding that a person in admitted possession of the property even if under eviction cannot be denied a license.

4. The counsel for the respondent NDMC states that though one of the proceedings for eviction filed by the landlord of the petitioner has been dismissed but several other proceedings for eviction are pending adjudication. She further states that the respondent NDMC under Sections 331 and 332 of the NDMC Act, 1994 has a policy of requiring proof of ownership or tenancy before granting any license with respect to a premises.

5. However in the present case it is to the knowledge of the respondent NDMC that the petitioner is indeed a tenant in the premises though under eviction. Till the petitioner is evicted, she cannot be denied the use of the premises in a lawful manner.

6. Accordingly, the petition is allowed. The respondent NDMC is directed to, subject to the petitioner complying with the other requirements, consider the application of the petitioner for license without insisting upon NOC/rent receipt from the landlord.

No costs.

*Dasti.*

**RAJIV SAHAI ENDLAW, J.**

**JANUARY 28, 2016**

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