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

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Judgment delivered on: 21.04.2017

+ W.P.(C) 2362/2017 & CM No.10157/2017 (for interim relief)

MOHD LAEEQ

..... Petitioner

versus

GOVT OF NCT OF DELHI AND ORS

..... Respondents

Advocates who appeared in this case:

For the Petitioner : Mr. Sanjay Srivastava and Mr. R.K. Saxena and Advocates.

For the Respondents : Ms. Swaty S. Malik, Advocate.
Mr. Kamesh Kumar, UDC, Office of SDM
(North West)

CORAM:-

HON'BLE MR JUSTICE SANJEEV SACHDEVA

JUDGMENT

21.04.2017

SANJEEV SACHDEVA, J. (ORAL)

1. The petitioner seeks a direction to respondents to desal the premises of the petitioner situated at C-34/1, Lawrence Road, Industrial Area and to permit the petitioner to carry out business from the said premises.

2. The case of the petitioner is that the petitioner has rented out space in premises known as M/s. Jagdish Cold Storage for running a

cold storage there from.

3. The petitioner operates the cold storage under the name and style of M/s. Al- Zubair Foods but carries on business from the premises known as M/s. Jagdish Cold Storage at C-34/1 Lawrence Road, Industrial Area, New Delhi.

4. It is contended that an FIR was lodged on 14.02.2017 with the Police Station Keshav Puram by one Gaurav Gupta contending that he had received information that 15 camels from Nagaur, Rajasthan were slaughtered on the hills of Tawadu Mewat and three cows were slaughtered from Tawadu and meat of the camels and cows was going to be stored in M/s. Jagdish Cold Storage.

5. The premises of the petitioner have been sealed on 14.02.2017 by a sealing order, issued by the Sub Divisional Magistrate. Learned counsel for the petitioner contends that there is no provision of law under which the premises could be sealed. He, further, submits that there is no report to show that any cows or camel meat was being stored in the premises of the petitioner.

6. Learned counsel for the petitioner submits that the petitioner was *bona fide*ly carrying on the business with regard to meat and meat products and does not deal with prohibited meat product. He submits that the sealing order does not refer to any provision of law under which the premises have been sealed.

7. Reliance is placed on the decision of a coordinate Bench of this Court dated 04.01.2011 in WP(C) 8147/2010 titled **Munna vs. The Commissioner (MCD) and Anr.** and on another decision, dated 06.04.2011 in WP(C) 2300/2011 titled **AFSAR & Ors. vs. The Commissioner (MCD) & Anr.** (hereinafter referred to as AFSAR – I) and the decision of the Division Bench dated 03.11.2011 in LPA 652/2011 titled **Municipal Corporation of Delhi vs. AFSAR & Ors** (hereinafter referred to as AFSAR – II).

8. Learned counsel for the respondents submits that information was received that a truck carrying prohibited meat articles was going to deliver the same to the premises of the petitioner. However, it is submitted that the information was that the meat would be delivered at Jagdish Cold Storage at C-34/1, Lawrence Road, Industrial Area.

9. Learned counsel for the respondent submits that the only cold storage operating from the premises known as M/s. Jagdish Cold Storage, C-34/1, Lawrence Road, Industrial Area is that of the petitioner.

10. She submits that the truck was apprehended and, on examination, it was found to contain meat, which was prohibited. Learned counsel for the respondent submits that in view of the evidence then available, the owner/driver and cleaner of the truck have been apprehended and are being prosecuted. Learned counsel for the respondents, under instructions from the Investigating Officer,

submits that the investigation is on and, if further evidence is found incriminating others, appropriate action would be taken.

11. Learned counsel for the respondents submits that the premises have been sealed in view of the evidence collected and, in case, the premises is descaled, there is an apprehension that the petitioner would continue to deal with banned cow meat.

12. Learned counsel for the respondents further submits that the sample analysis by one of the two forensic laboratories with regard to some of the meat articles, being carried in the truck, has tested positive for banned cow meat. Though, the other report is negative. She submits that a third sample has been sent to the Forensic Laboratory at Hyderabad and report is awaited.

13. Learned counsel for the respondents submits that since the information, based on which the action was taken, was that the banned meat articles were being taken to the cold storage of the petitioner, sealing of the premises would be required to be continued and the same would be subject to the jurisdiction of the Court where prosecution in terms of the FIR is pending.

14. Learned counsel for the respondents, however submits that the two test reports of the samples drawn from the premises of the petitioner have shown negative result.

15. Learned counsel for the petitioner submits that as in the case of

Munna (*supra*), without prejudice to the facts that the petitioner has not carried out the business of selling prohibited meat, the petitioner is willing to give an undertaking that the petitioner shall not carry on business of selling prohibited cow meat.

16. A Coordinate Bench of this Court in **Munna** (*Supra*) has, inter alia, held as under:-

“6. Howsoever grave the conduct of the petitioner may be, the law does not permit deprivation of the petitioner of his property for the reason thereof. The counsel for the respondent MCD has been unable to show any law where under the property even if used / allowed to be used for the prohibited sale of cow meat can be sealed permanently. Even under the Delhi Agricultural Cattle Preservation Act, 1994, such punishment of sealing / deprivation of the property is not provided for. Needless to state, the petitioner without sanction of law cannot be deprived of his property. This Court is therefore of the considered opinion that the sealing of the shop of the petitioner at Zafrabad, Delhi cannot be sustained.

7. However, before directing the respondent MCD to de-seal the said shop, it is deemed expedient to give an opportunity to the respondent MCD to if so desirous, apply to the Court where the petitioner is being prosecuted for an order for continuing sealing of the shop, if found necessary for the said prosecution.

8. In view of the above, the writ petition is allowed with the following directions:

- (i) *The respondent MCD is accorded liberty to obtain the order for continuing with the sealing of the shop at Zafrabad, Delhi from the Court where the petitioner is being prosecuted.*
- (ii) *However, if there is no such order on or before 27th January, 2011, the respondent MCD shall de-seal the said shop on 28th January, 2011.*
- (iii) *The undertaking aforesaid of the petitioner is accepted and the petitioner is ordered to be bound with the same. Thus upon de-sealing of the shop, the petitioner shall not carry on or allow to be carried on business connected to meat / meat products from the said shop and if the shop is found to be so used, the petitioner, besides liability under other laws, shall also be liable for breach of undertaking given to this Court.”*

17. As has been held in **Munna** (*Supra*), it is clear that the law does not permit deprivation of the petitioner of his property. As in the case of **Munna** (*Supra*), the respondents, in this case, also have been unable to show a provision of law under which the premises have been sealed or could be continued to be sealed permanently. Even the Delhi Agricultural Cattle Preservation Act, 1994 does not provide for sealing/deprivation of the property.

18. Similar view has been taken by this Court by the Coordinate Bench in **AFSAR - I** (*supra*), which judgment has been AFFIRMED by the Division Bench in **AFSAR - II** (*supra*).

19. In view of the above, I am of the view that sealing of the

premises of the petitioner cannot be sustained. However, before directing the de-sealing of the said premises, it is deemed expedient to give an opportunity to the respondent, if so desirous, to apply to the Court where the proceedings consequent to FIR No.110/2017, Police Station Keshav Puram dated 14.02.2017 are pending for obtaining an order for continuing sealing of the cold storage, if found necessary, for the purposes of the said prosecution.

20. In the circumstances, the writ petition is allowed with the following directions:-

- (i) The respondents are granted liberty to obtain the order for continuing with the sealing of the cold storage at C-34/1, Lawrence Road from the Court where the prosecution consequent to FIR No.110 dated 14.02.2017, P.S. Keshav Puram is pending.
- (ii) However, if no such order is obtained prior to 19.05.2017, the respondents shall de-seal the said premises on 20.05.2017.
- (iii) The petitioner shall file an undertaking that, upon desealing of the said premises, the petitioner shall not carry on or allow to be carried on any storage or sale of prohibited cow meat from the said premises and, if the premises is found to be so used, the petitioner, besides being liable under other laws, shall also be liable for breach of undertaking given to this Court.

(iv) Pending the desealing of the premises, the petitioner would be permitted to service the cooling coils of the cold storage so as to maintain temperature. For the said purpose, as and when request is made by the petitioner, the respondent shall deseal the premises of the cold storage to permit the petitioner to service the cooling coils and, once the service is done, the premises shall be resealed by the respondents. It is clarified that the petitioner would not be permitted to take out any meat article or any good stored in the cold storage and the servicing would be carried out in the presence and under supervision of the officers of the respondent. The petitioner would be permitted to bring in service equipments and once the service is carried out, the service equipments shall be removed and the factory resealed.

21. The writ petition is, accordingly, disposed of.

22. *Dasti* under the signatures of the Court Master.

SANJEEV SACHDEVA, J

APRIL 21, 2017
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