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IN THE HIGH COURT OF DELHI AT NEW DELHI

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W.P.(C) 5528/2016

RAJESH GIRI

..... Petitioner

Through Mr. Chetan Dutt and Mr. R. K.
Yadav, Advocates

versus

ESTATE OFFICER & ANR

..... Respondents

Through Mr. Rahul Sharma and Mr. C. K.
Bhatt, Advocates

CORAM:

HON'BLE MS. JUSTICE INDERMEET KAUR

ORDER

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07.03.2017

W.P.(C) 5528/2016 and CM No. 23094/2016 (stay)

Petitioner is aggrieved by the order dated 17.05.2016 passed by the learned District Judge wherein the appeal of the petitioner under section 9 of the Public Premises (Eviction of Unauthorized Occupants) Act 1971 had been dismissed. Learned District Judge had endorsed the finding returned by the appellate body. Petitioner had been directed to vacate his property. On 10.06.2016 an interim order was passed in favour of the petitioner; no coercive action could be taken against him.

Counter affidavit has been filed by the respondent. The submission of respondent is that the petitioner has not come to the Court with clean hands. Petitioner is in illegal possession of the shop (no.3 in the campus of the GTB Hospital) since 22.01.2006. He had

every occasion to appear before the Estate Officer. He has been making excuses. The Estate Officer had rightly passed an order on 11.06.2014 directing the eviction of the petitioner. It is pointed out that the petitioner is also in huge arrears of license fee.

In the course of these proceedings counsel for the petitioner pointed out that the Estate Officer had himself in his order dated 11.06.2014 noted that the outstanding amount is Rs. 214/- up to 22.06.2014. Submission is that it is on this paltry liability of Rs. 214/- (up to 22.06.2014) that the order of the Estate Officer has been premised, it is this submission which had also weighed in mind of the Court to grant interim relief to the petitioner.

Admittedly since 2014 the petitioner is not paying license fee. On a query put to the counsel for the petitioner he submits that the monthly licence fee of this shop (initially Rs. 17,001/-) which has now escalated to Rs. 48,506/- per month. Learned counsel for the petitioner points out that the petitioner was not allowed to use this shop in the interregnum period i.e. between June, 2014 up to October, 2016 and as such he was not liable to pay license fee for this period. This averment does not find mention in the entire body of this petition; there is no whisper that the petitioner had not been permitted to use or to occupy this shop between June, 2014 up to October, 2016; this submission has been advanced orally for the first time today.

Learned counsel for the respondent disputes this submission. His submission is that the petitioner is enjoying this property continuously and uninterruptedly since the year 2006; arrears of

licence fee which on the last date had been noted as Rs. 9,82,672/- have now escalated to Rs. 12,12,062/-. They have not been paid. On the last date (10.01.2017) the Court had directed the petitioner to clear all arrears; he had also been directed to appear in person. He has neither cleared the arrears and nor is he present. Petitioner cannot enjoy any sympathy or equitable consideration by this Court in the absence of his clearing the arrears. It is the obligation of the petitioner to pay the licence fee (admittedly Rs. 48,506/- per month); petitioner deserves no sympathy.

Learned counsel for the petitioner points out that during the pendency of the petition the petitioner has made three payments; two demand drafts dated 07.01.2016 in the sum of Rs. 49,000/- each and the third demand draft dated 20.10.2016 in the sum of Rs. 90,000.

This Court notes this submission. These payments are at best for four months. This Court re-endorses the fact that the petitioner is not present and the arrears amounting to more than Rs. 10 lacs (minus the payments supra) have not been cleared.

The counsel for the petitioner at this stage again submits that the Medical Superintendent of the Department had appreciated his submission that he was not occupying the demised shop between June 2014 to October 2016; at the cost of repetition neither has this been averred in the petition and nor a single document to the said effect has been placed on record. This Court notes that this oral submission is in fact an endeavour to mislead the Court.

This petition appears to be misconceived. Petitioner admittedly being in arrears was rightly ordered to be evicted by both the Estate

Officer and the Appellate Court.

Petition has no merit. Dismissed.

INDERMEET KAUR, J

MARCH 07, 2017/gb