

\$~17

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

+ **W.P.(C) 10692/2016 & C.M. No.41868/2016**

PRASHANT SHARMA

..... Petitioner

Through Mr.Kedar Yadav and Mr.Hemant
Sharma and Mr. Markandey Gupta,
Advocates.

versus

**THE COMMISSIONER, NORTH DELHI MUNICIPAL
CORPORATION**

..... Respondent

Through Ms.Mini Pushkarana Standing
Counsel for North DMC.

CORAM:

HON'BLE MS. JUSTICE INDERMEET KAUR

ORDER

%

03.02.2017

Petitioner Prashant Sharma had been allotted a parking site at MLUG Model Town-II on 27.4.2016 for a period of one year w.e.f. 27.4.2016 at a monthly licence fee of Rs.1,05,075/-. The petitioner sent a surrender notice to the respondent on 22.6.2016 with a request to take back possession of the aforementioned parking site. The respondent accepted this surrender notice on 28.7.2016 but gave permission to the petitioner to continue with the contract up to 21.9.2016. Meanwhile, a fresh E-auction tender was floated by the respondent for the allotment of the said parking site. The petitioner was the successful bidder. A Letter of Intent (LOI) was issued to the petitioner on 05.8.2016. Pursuant to this successful bid a sum of

Rs.4,24,606/- was deposited by the petitioner with the respondent-Corporation on 22.8.2016. Thereafter the petitioner was informed that physical possession of the site has to be handed back to the Department as the parking had been allotted to somebody else; in spite of the LOI having been issued to the petitioner and the petitioner having deposited an amount of Rs.4,24,606/- he was not allowed to continue with this parking site; hence this petition.

Counter affidavit/response has been filed by the Department.

The facts as stated supra are not really in dispute. The contention in the counter affidavit of the respondent is that since the petitioner had willingly surrendered his site in question to the respondent, the petitioner was permitted in the interregnum period to continue with the parking site up to 21.9.2016. This is an admitted fact. It has also been admitted that meanwhile a new E-auction tender was floated in which the petitioner was successful. He had deposited the amount as noted supra on 22.8.2016. However, contention of the Department is that on 30.8.2016 an inspection of the parking site was carried out by the Commissioner. In the course of the inspection it was noted that one gate leading to the underground parking was closed; commercial vehicles were being parked there permanently and this underground parking was used in the shape of godown. Accordingly, show cause notice dated 31.8.2016 was issued to the petitioner to which he has given his reply. The same was considered but the view of the Commissioner was arbitrary in not handing over the parking to the petitioner; he was directed to vacate the parking site which he did on 21.9.2016. A fresh NIT dated

30.9.2016 was floated in which one Vardan Tiwari was declared the successful bidder and the parking site has since been allotted to him for a period of one year i.e. up to 16.11.2017. The parking site is now being operated upon by Vardan Tiwari.

This Court notes that this development i.e. the handing over of the parking site to the new contractor took place during the pendency of this petition. This Court also notes that in spite of a stay application having been filed by the petitioner no interim relief has been granted to him.

This act of the respondent in handing over the parking site (pursuant to the E-auction tender which was floated) to a new contractor namely Vardan Tiwari who was successful is an act of the Corporation which suffers from no infirmity. This was for a period of one year i.e. up to 16.11.2017. No vested right had accrued in favour of the petitioner. Although the petitioner had deposited a sum of Rs.4,24,606/- (pursuant to an LOI) yet on the inspection of the site irregularities qua the petitioner were noted to which a show cause notice had been issued to him. After his reply, the Commissioner did not consider it fit to grant the parking site back to the petitioner. The petitioner had voluntarily handed over the parking site to the Corporation on 21.9.2016. This was after he had been given opportunity to explain his stand after a show cause notice. The parking site has since been handed over to the new contractor.

This Court is of the view that nothing really remains in this petition. This petition is accordingly disposed of with liberty granted to the petitioner to participate in future tenders to be floated by the

respondent-Corporation. The respondent-Corporation will consider the case of the petitioner as and when he submits his offer and the same shall be considered uninfluenced by the inspection report (dated 30.8.2016) which had led the Corporation not to allot this parking site to him.

Petition disposed of in the above terms.

INDERMEET KAUR, J

FEBRUARY 03, 2017

ndn