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

+ **W.P.(C) 9420/2017 & CM No.38334/2017 & 38335/2017**

SMT. NATHIA DEVI

..... Petitioner

Through: Mr. Kirti Uppal, Sr. Adv. with Ms.
Aastha Dhaan, Mr. Ali R. Osmani,
Ms. Gauri P. Desai and Ms. Diksha
Mathur, Advs.

versus

NEW DELHI MUNICIPAL COUNCIL AND ORS..... Respondents

Through: Mr. Sri Harsha Peechara, Standing
Counsel with Mr. Nirvikar Verma,
ASC for NDMC.

CORAM:

HON'BLE MR. JUSTICE J.R. MIDHA

ORDER

% **27.10.2017**

CM No.38335/2017

Allowed, subject to just exceptions.

W.P.(C) 9420/2017 & CM No.38334/2017

1. Issue notice. Learned counsel for respondents accepts notice.
2. Learned senior counsel for petitioner submits that the petitioner's appeal against the eviction order is pending before learned District Judge and there is an interim order dated 06th June, 2017 restraining NDMC from taking any coercive action against the petitioner. It is submitted that NDMC sealed the Kiosk at gate No.6, Palika Bazar, New Delhi in violation of the interim order dated 06th June, 2017.
3. Learned counsel for the respondent submits that on 17th August, 2017, the respondents found the petitioner involved in distribution of cold drinks in violation of the licence condition and, therefore, the respondents passed a sealing order dated 17th August, 2017 and thereafter, sealed the Kiosk on

17th August, 2017 itself.

4. Learned Standing Counsel for the petitioner submits that the petitioner's husband, Brijender Singh Lodha is present in Court and without prejudice to the rights and contentions, Brijender Singh Lodha, on instructions from his wife, gives an undertaking to this Court not to deal with the sale or distribution of the beverages till the disposal of the appeal before learned District Judge. The undertaking of Brijender Singh Lodha is accepted. The petitioner shall be bound by the undertaking given by her husband to this Court.

5. In the facts and circumstances of this case, the respondents are directed to remove the seal forthwith. The petitioner is permitted to continue to occupy the kiosk till the disposal of the appeal bearing PPA No.23/2017 subject to the condition that he would be entitled only to deal with the flowers. The writ petition and the pending application are disposed of in the above terms.

6. It is clarified that this Court has not examined the petitioner's entitlement to legally carry out an occupation other than that of florists and nothing recorded herein be considered as a final expression of this Court on the merits of the case.

7. Copy of this order be sent to the learned Appellate Court.

8. Copy of this order be given *dasti* to counsels for the parties under signature of Court Master.

J.R. MIDHA, J.

OCTOBER 27, 2017
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