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

% Judgment delivered on: 22.11.2017

+ W.P.(C) 10387/2017 & C.M. 42412/2017

JAMMU AND KASHMIR STATE ROAD
TRANSPORT CORPORATION

..... Petitioner

versus

BUILDING MAINTENANCE AND CONSTRUCTION
COMMITTEE (TIS HAZARI COURTS COMPLEX)
AND ANR.

..... Respondents

Advocates who appeared in this case:

For the Petitioner : Mr. Sumeet Verma, with Mr. Aman
Choudhary, Advs.

For the Respondent : Mr. Viraj R. Datar with Mr. A. Vashistha,
Advs. for R-1
Ms. Shruti Munjal, Mr. Bhanu Gupta, proxy
counsel for Mr. Ankur Chhiber, Adv. for R-2

CORAM:-

HON'BLE MR. JUSTICE S. RAVINDRA BHAT

HON'BLE MR. JUSTICE SANJEEV SACHDEVA

S. RAVINDRA BHAT, J. (OPEN COURT)

CM No. 42413/2017 (Exemption)

Allowed, subject to all just exceptions.

W.P. (C) 10387/2017

1. The petitioner-Jammu & Kashmir State Road Transport Corporation

(in short 'Corporation') is aggrieved by an order made by the Registrar General, Delhi High Court, which cited an earlier order of the Supreme Court – in W.P. (C) 741/1989 (Delhi Judicial Services Association Vs. Union of India); the order required the Corporation to secure an alternative accommodation for the tourist spot. By the impugned order, the petitioner-Corporation has been asked to hand over the possession of the portion of the plot adjacent to the Tis Hazari Courts Complex.

2. The petitioner-Corporation contends that it has been in continuous occupation of the plot since 50 years and has been paying licence fee ever since. It is submitted that when the Court made the order on 04.08.1997, to enhance the infrastructure, there was inadequacy in Courtroom infrastructure. Learned counsel emphasises that the Courtroom infrastructure and other buildings have greatly augmented, with the construction of the Rohini Courts, Dwarka Courts and Saket Courts Complexes, which have since been fully occupied. In these circumstances, the petitioner-Corporation should be permitted to continue to occupy the premises until at least it secures adequate alternate arrangement. Learned counsel contends that the Corporation take cares of the requirement of the visitors who visit Vaishno Devi and Amarnath Shrines and having regard to this, any action would not be justified and would be in fact arbitrary.

3. The order of the Supreme Court, inter-alia, states as follows:-

“As a result of the re-organisation of the Civil Administration, it is stated in the affidavit filed the Registrar of the High Court that some rooms have become vacant and the vacant rooms are directed to be given by the respective administration to the High Court for establishing the Courts. An affidavit has been filed by Mr. Manoj Kumar, ADM, Headquarters, Office of the Secretary (Revenue), Government

of NCT of Delhi claiming that the rooms have been occupied for the specified purposes as enumerated in para 3 of the affidavit filed by him. On the basis of the affidavit, it is difficult to decide the controversy. We, therefore, constitute a committee consisting of Mr. PP. Rao, Mr. Harish Salve, Mr. Arun Jaitley, learned senior counsel of the this Bar and the President of the Bar Association, Tis Hazari Court to inspect that place and give us the factual report. At the time of the inspection , Mr. DN. Goburdhan is also directed to be present. The officers are directed to give necessary access to the committee constituted by this Court for the inspection and report us.

Ms. Shashi Kiran, learned counsel appears for the Rajya Sainik Board. Notice to the Divisional Manager, Northern Railway. Counter Affidavit in the meanwhile. The JKSRTC is directed to secure alternative accommodation for the tourist spot to congregate tourists being taken in the conducted tours. They are given two months time to vacate the premises. NCT and Delhi Administration are directed to consider the alternative accommodation to the JKSRTC.

We are informed that the plans have been finalised and approved by the Architect and they have sent to the Government. Government is directed to Sanction the plans within one month from the date of the receipt of this order. After the sanction is granted, CPWD is directed to have the work started immediately.”

4. So far as the Corporation's contention with respect to development of further infrastructure, is ineffective and obvious and need to vacate the premises concerned, the Court sees no merit. The mere putting of such infrastructure does not eliminate the need for creating number of courtrooms, which has correspondingly increasing as also the litigation. As on date, the Delhi High Court has not been able to fill all the vacancies because of lack of inadequate courtrooms. Having regard to this, the Court appears to have required the Corporation to hand over the premises, in

terms of the direction, which remained incomplete for over 20 years. Learned counsel had contended during the hearing that the premises/plot cannot be utilized for construction of courts on account of existing Metro Lines over it. That factor is undoubtedly to be taken into account, by the respondent, while planning suitable infrastructure for the purposes of use by the Court.

5. In view of the above discussion, there is no merit in the petition. The petition is dismissed.

6. Learned counsel for the petitioner sought three months' time to vacate the premises. Such time is granted subject to the petitioner-Corporation's furnishing an unconditional undertaking/affidavit that it shall vacate and hand over vacant and physical possession to the respondent at the end of three months from today. The affidavit/undertaking, by the duly authorized official on behalf of the Corporation, shall be furnished to the Court as well as to the respondent within one week from today.

**S. RAVINDRA BHAT
(JUDGE)**

**SANJEEV SACHDEVA
(JUDGE)**

**NOVEMBER 22, 2017
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