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

+ W.P.(C) 10402/2017

SURENDER PAWAR

..... Petitioner

Through: Mr Abhishek Ghai, Advocate.

versus

THE GOVT OF NCT OF DELHI AND ORS. Respondents

Through: Mr Gautam Narayan, ASC and Mr R.
A. Iyer, Advocate for respondent with
Mr Prem Mishra, LA DTIDC.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

ORDER

% **04.01.2018**

REVIEW PET.513/2017 & CM No.44610/2017

1. This is a petition filed by the petitioner seeking review of the order dated 23.11.2017 claiming that the petitioner's case be treated in parity with the case of ***Suraj Chaudhary v. The Executive Director & Ors: W.P.(C) 10723/2016*** decided on 12.07.2017, whereby the Earnest Money Deposit (EMD) deposited by the petitioner therein was directed to be refunded.

2. This Court finds no ground to review the order dated 23.11.2017 for several reasons. First of all, the said order was passed at the instance of the learned counsel for the petitioner who had requested that the above captioned petition be disposed of in terms of the order dated 14.07.2017 passed by this Court in an earlier petition, namely, ***Kiran Makkar v. Govt. of NCT of Delhi and Ors.: W.P.(C) 5810/2017***. This contention was accepted. In all fairness, the learned counsel for the respondent had also not opposed

the petitioner's request. Thus, essentially, this order was passed with the concurrence of the learned counsel for the parties.

3. Secondly, the petitioner's case is not similar to the case of **Suraj Chaudhary** (*supra*). In that case, notice inviting tender did not indicate any condition that possession would be granted subject to the outcome of the pending litigation. However, the notice inviting tender in the present case had expressly referred to the pending litigation. Therefore, the facts in this case are similar to the facts in the case of **Kiran Makkar** (*supra*) and not **Suraj Chaudhary** (*supra*).

4. Thirdly, the case of **Munna Khan v. GNCTD & Anr.: W.P.(C) 6640/2016** - wherein orders interdicting Delhi Transport Infrastructure Development Corporation Limited, respondent no.2 (hereafter 'DTIDC') from recovering possession of the shop allotted to the petitioner was passed - was also listed for hearing before this Court on the same date. The learned counsel appearing for the petitioner was informed about the same, and the learned counsel appearing for the respondents had also requested that the above captioned petition be taken up after conclusion of the hearing in the case of **Munna Khan** (*supra*). However, the learned counsel for the petitioner had unequivocally stated that the petitioner did not want to accept the allotment of the shop in question and, therefore, requested this Court to pass an order in terms of the decision in the case of **Kiran Makkar** (*supra*). The case of **Munna Khan** (*supra*) was taken up on that very date and, in terms of the decision rendered subsequently, the petition was dismissed; consequently, the shop allotted to the petitioner could be handed over to the petitioner within a short period of time.

5. Mr Gautam Narayan, learned counsel appearing for DTIDC states that

DTIDC is ready and willing to handover the possession of the shop in question to the petitioner by 01.02.2018 on the same terms and conditions as bid for by the petitioner. However, learned counsel for the petitioner submits that the petitioner no longer desires to take up the licence for running the shop in question as the same is not economically feasible.

6. In view of the above, the review petition and the pending application are dismissed.

JANUARY 04, 2018
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VIBHU BAKHRU, J