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

+ W.P.(C) 515/2018 and C.M. Appl. 2214/2018

LAL MAHAL LTD & ORS Petitioners

Through: Mr. Prateek Chaturvedi

versus

THE ESTATE OFFICER, OFFICE OF
DEVELOPMENT COMMISSIONER & ORS Respondents

Through: Mr. Amit Mahajan, CGSC with Mr.
Madhave Chitale, Advocate for
respondent No.1 with Mr. Rakesh
Kumar, Dy. Development
Commissioner, SEZ
Ms. Hetu Arora Sethi, ASC and Mr.
Abhimanyu Verma, Advocate for
respondents No.2 and 3

CORAM:
HON'BLE MR. JUSTICE J.R. MIDHA

% **ORDER**
22.01.2018

1. The petitioner has challenged the recovery certificate dated 23rd October, 2017 (Annexure P-1) whereby the respondent has initiated proceedings to recover Rs.9,22,820/- from the petitioners. The petitioners are in possession of unit bearing No.SDF No.F-10 A & B at NOIDA Special Economic Zone which was allotted to them and the quarterly rent payable by the petitioners was Rs.2,81,370/-.
2. Vide notice dated 11th April, 2017 (Annexure P-2) under Section 7(3) of the Public Premises (Eviction of Unauthorised Occupants) Act, 1971, respondent No.1 intimated the petitioners that the lease rent amounting to Rs.5,76,053/- is due. This was followed by notices dated 22nd May, 2017

(Annexure P-3) and 11th July, 2017 (Annexure P-4) under Section 7(2) of the Public Premises (Eviction of Unauthorised Occupants) Act, 1971.

3. Vide letter dated 02nd August, 2017 (Annexure P-6), respondent No.1 intimated the petitioner No.1 that the outstanding lease rent was Rs.9,22,820/- as on 30th September, 2017 and the petitioner No.1 was again directed to deposit the said amount.

4. Vide letter dated 25th August, 2017 (Annexure P-8), respondent No.1 issued show cause notice under Section 4(1) of the Public Premises (Eviction of Unauthorised Occupants) Act, 1971 calling upon the petitioners for personal hearing on 11th September, 2017 under Section 4(2)(b)(ii) of the Public Premises (Eviction of Unauthorised Occupants) Act, 1971. The petitioners objected to the show cause notice vide letter dated 09th September, 2017 (Annexure P-9) on the ground that the break up of Rs.9,22,820/- has not been furnished. The petitioners did not attend the personal hearing on 11th September, 2017.

5. Vide letter dated 11th September, 2017 (Annexure P-10), the respondent No.1 furnished the break-up of Rs.9,22,994/- to the petitioners.

6. Vide letter dated 20th September, 2017 (Annexure P-11), the petitioners sought time to check and tally the records whereupon they shall remit the arrears of lease rent.

7. The petitioners have challenged the recovery certificate and warrants of arrest issued by the respondents for recovery of the outstanding lease rent amount.

8. Mr. Amit Mahajan, learned Standing Counsel for respondent No.1 submits that the outstanding lease amount is Rs.15,65,277/- for the period 01st January, 2017 to 31st March, 2018, which has not been paid.

9. Mr. Rakesh Kumar, Deputy Development Commissioner of respondent No.1 is present and has produced the record of NOIDA Special

Economic Zone according to which the last payment made by the petitioners was in October, 2016 for the period ending 31st December, 2016. The original record has been shown to the petitioners No.2 and 3.

10. This Court is of the view that this petition is gross abuse and misuse of the process of law. The petitioners have not made any payment of lease rent for the period 01st January, 2017 onwards. The correspondence placed on record clearly show that the petitioner never disputed the liability to pay the lease rent after 01st January, 2017 and the only averment raised was to give the break up which was furnished to the petitioners.

11. At this stage, Mr. Prem Chand Garg, Director of petitioner No.1, present in Court, undertakes to pay Rs.7,82,638.50 (50% of the lease rent amount for the period 01st January, 2017 to 31st March, 2018) to respondent No.1 within one month from today and the balance 50% i.e. Rs.7,82,638.50 within two months from today. The undertaking of the petitioners is accepted. The petitioners shall remain bound by the undertaking given to this Court.

12. In view of the undertaking given, the respondents shall withhold any coercive action for a period of two months. However, in the event of any violation of the undertaking, the respondents shall be entitled to initiate appropriate action for violation of the undertaking as well as for recovery of the outstanding amount in accordance with law.

13. The writ petition is disposed of in view of the above undertaking.

14. Learned counsel for respondent No.1 has also raised the territorial jurisdiction issue of this Court. However, in view of the undertaking given by the petitioners today, the objection of territorial jurisdiction is not being considered by this Court. This order shall not be treated as a precedent.

15. Pending application is disposed of.

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

J.R. MIDHA, J.

JANUARY 22, 2018

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