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

Judgment pronounced on: 26.02.2018

+ W.P.(C) 1833/2018 & CM No.7592/2018

SH. MOHD. MEHFOOZ Petitioner
Through: Mr. Anis Ahmed, Adv.

versus

DELHI WAQF BOARD. AND ANR.Respondents
Through: Mr. Wajeeh Shafiq, Standing
Counsel with Mr. D. Kapoor, Adv.
for R-1
Mr. Siddharth Dutta and Mr.
Dushyant Singh, Advs. for R-2

CORAM:
HON'BLE MR. JUSTICE RAJIV SHAKDHER

RAJIV SHAKDHER, J. (ORAL)

1. The petitioner via this writ petition has challenged the order dated 29.1.2018, passed by the Sub-Divisional Magistrate, Sub-Division, Kotwali, New Delhi. By virtue of the impugned order, the petitioner has been directed to vacate the premises described as property bearing No.3136, Gali Naqqanchian, First and Second Floor, Turkman Gate, Delhi-110006 (hereinafter referred to as 'subject property').

1.1 It is not disputed before me by counsel for the petitioner that the subject property is a Waqf property and that the subject property will be covered by the Waqf Act, 1995 (in short 'Act') and the Waqf Properties Lease Rules, 2014 (in short '2014 Rules').

2. Mr. Wajeeh Shafiq, who appears on advance notice, says

that the petitioner cannot continue in the subject property and no private negotiations can be held with him by the Board in view of the provisions made in Statute and Rules. Reference in this behalf is made to Section 56 of the Act and Rules 5 to 7 of the 2014 Rules.

3. In brief, the third proviso to Section 56 of the Act provides that the Board before making out a lease qua any Waqf property will publish the details of the lease in at least one leading National and Regional newspaper.

4. Likewise, Rules 5 to 7 of the 2014 Rules provide for inviting bids where the Board wishes to lease out its property. Quite clearly, therefore, no private negotiations can be held with the petitioner. It is quite obvious, a position which is not disputed by the counsel for the respondents is that the petitioner can also bid for obtaining leasehold rights in the subject property once a Public Notice is taken out for that purpose.

5. Accordingly, the writ petition is dismissed with liberty to the petitioner to participate in the auction, once the same is advertised by respondent no.1.

6. At this stage, learned counsel for the petitioner says that the petitioner will vacate the property if some leeway is given for the said purpose.

7. Furthermore, counsel for the petitioner says that he will pay market rent for extended period which can be calculated on the basis of 5% of the circle rate which is prevalent for the area in which the subject property is situate.

7.1 Furthermore, counsel for the petitioner says that an undertaking will be filed in these terms within ten days from today.

8. Accordingly, the petitioner is given three months time to

vacate the subject property, which will commence from today. The petitioner will vacate the subject property on or before 26.5.2018. Qua this period, the petitioner will pay the market rent, in advance, that is on or before seventh day of each calendar month, which will be equivalent to 5% of the value of the subject property calculated at the circle rate prevailing in the area where it is located. In case, there is any failure to pay the rent, the protection granted by this Court will dissolve automatically.

9. The petitioner will file an undertaking to this effect within ten days from today.

10. The respondent will, then, be at liberty to have the subject property vacated, albeit, in accordance with law.

11. The petition is, as indicated above, disposed of in the aforementioned terms.

RAJIV SHAKDHER
(JUDGE)

FEBRUARY 26, 2018

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