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

+ W.P.(C) 2228/2014 & CM No.4651/2014 (for stay).

RAJIV KHANNA

..... Petitioner

Through: Mr. Ujjwal Jain and Mr. Altamish
Siddiki, Advs.

versus

UNIVERSITY OF DELHI AND ORS

..... Respondents

Through: Mr. Ankur Chhiber, Adv.

CORAM:

HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW

ORDER

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03.08.2018

1. This petition under Article 226 of the Constitution of India was filed, impugning the letter dated 27th February, 2014 of the respondent, (a) refusing the request dated 19th February, 2014 of the petitioner for retention of University accommodation No.19/4, Cavalry Line; (b) calling upon the petitioner to vacate the said accommodation and handover possession thereof to the respondent; and, (c) asking the petitioner to deposit the outstanding licence fee @50 times of the normal licence fee, of Rs.2,24,950/- w.e.f. 1st September, 2013 to 28th February, 2014. Challenge in the petition was also made to the notice dated 20th March, 2014 under Section 4(1) and 4(2)(b)(2) of the Public Premises (Eviction of Unauthorised Occupants) Act, 1971 (PP Act) issued by the Estate Officer of the respondent to the petitioner.

2. The petition came up first before this Court on 4th April, 2014 and thereafter was adjourned from time to time. On 15th July, 2014, it was informed by the counsel for the respondent that the petitioner had already

vacated the accommodation. Vide order dated 7th February, 2017, an application of the petitioner for amendment of the petition was allowed and the amended petition taken on record. In the amended petition, the challenge was also made to the letter dated 3rd December, 2014 whereby the respondent sought to recover a sum of Rs.4,25,398/- in unpaid estate dues from the petitioner, from 1st September, 2013 till 28th February, 2014 i.e. when the premises were vacated.

3. The respondent has filed a counter affidavit to the amended petition.

4. The counsel for the respondent was heard on 30th July, 2018 and the hearing adjourned to today with a request to the counsel for the respondent to produce before this Court the file of the Estate Officer culminating in the order under Section 7 of the PP Act.

5. The counsel for the respondent, in the hearing on 30th July, 2018, informed (i) that the petitioner superannuated from the services of the respondent on 30th November, 2012 and was from time to time granted extension till 31st May, 2013, on medical grounds, to vacate the premises aforesaid allotted to him by virtue with his employment with the respondent; (ii) however the petitioner, vide his letter dated 18th May, 2013 sought further extension, again on medical grounds and was again granted extension till 31st August, 2013 but on the condition of the petitioner, instead of regular licence fee, paying licence fee from the period 1st June, 2013 till the date of vacation @10 times the licence fee; (iii) the petitioner, on 17th August, 2013 sought further extension, again on medical grounds, and which was rejected vide letter dated 2nd September, 2013 and the petitioner was intimated that the petitioner, w.e.f. 1st September, 2013, till the date of

vacation, will be liable to pay damages @ 50 times the normal licence fee; (iv) that the petitioner paid 10 times the licence fee for the period from 1st September, 2013 to till 31st December, 2013; (v) that the petitioner vacated the accommodation finally in February, 2014; (vi) damages computed @ 50 times the licence fee for the period from 1st September, 2013 to 28th February, 2018 in the sum of Rs.4,25,398/- were due from the petitioner.

6. The counsel for the respondent today states (i) that the proceedings under Sections 4&5 of the PP Act were underway against the petitioner when the petitioner informed the Estate Officer of vacation of the premises and thus the said proceedings were dropped on 19th May, 2014, with the caveat that the petitioner pays all dues etc. of the University till the date of vacation; and, (ii) that thereafter no proceedings till date have been commenced and no demand raised owing to the pendency of this petition.

7. The counsel for the respondent, on 30th July, 2018 had also drawn attention of this Court to page 272 of the paper book being the Circular dated 31st July, 2013 of the respondent University revising the rates of damages for unauthorised occupation of University accommodation w.e.f. 1st January, 2013 in accordance with the Government of India, Ministry of Urban Development, Directorate of Estates Notification O.M. No.18011/2/2006-Pol-III dated 4th June, 2013. It was informed by the counsel for the respondent that as per the said Notification and Circular, the damages @ 50 times the licence fee are recoverable for the type of accommodation which the petitioner was occupying.

8. I have considered the controversy. What emerges is, that owing to the petitioner having vacated the premises during the pendency of proceedings

under Sections 4&5 of the PP Act, no order under Section 5 of the said Act, of eviction of the petitioner, holding the petitioner to be in unauthorised occupation has come to be passed. Similarly, owing to the pendency of this petition since the year 2014, the respondent did not take action for recovery of damage charges due from the petitioner w.e.f. 1st September, 2013 till 28th February, 2014 @ 50 times the licence fee.

9. Being of the view, (i) that even if this petition were to be dismissed, the respondent would have to initiate proceedings under Section 7 of the PP Act for recovery of damages @ 50 times the licence fee; (ii) assessment of damages by the Estate Officer will have to be done in accordance with Rule 8 of the Public Premises (Eviction of Unauthorised. Occupants) Rules, 1971; (iii) that the remedy of appeal would be available to the petitioner, if aggrieved from the assessment so done by the Estate Officer and in which appeal the District Judge would again have to go into the controversy of the reasonableness of the damages in terms of Rule 8 aforesaid; (iv) that the petitioner, on health grounds was indeed granted extension to vacate the premises on the normal licence fee, from 1st December, 2012 till 31st May, 2013 and thereafter @ 10 times the licence fee till 31st August, 2013; (v) that in the proceedings if any initiated against the petitioner, a question would also arise about the maintainability thereof after dropping the proceedings under Section 5 and after lapse of nearly three years; (vi) that the petitioner has devoted his life as a teacher of law and continues to do so at different law colleges, it is felt that the interest of justice would be served if the petitioner is directed to pay licence fee for the period w.e.f. 1st September, 2013 till 28th February, 2014 @ 20 times the licence fee besides water

charges and less the amounts already paid from 1st September, 2013 till 31st December, 2013.

10. Accordingly, this petition is disposed of with a direction that subject to the petitioner paying the aforesaid amounts on or before 30th September, 2018, the entire demand against the petitioner with respect to the aforesaid accommodation shall stand satisfied.

11. For the sake of clarity, it is also recorded that as per the Circular dated 31st July, 2013 supra, the monthly licence fee for the accommodation which was in occupation of the petitioner was Rs.255/- and 20 times the licence fee has to be calculated on the said basis.

12. At this stage, the counsel for the petitioner states that the respondent has already recovered the sum of Rs.4,50,398/- from the retirement dues of the petitioner.

13. The counsel for the respondent has no instructions in this regard.

14. If the aforesaid is true, then the balance amount due after computing the amount as aforesaid be refunded to the petitioner on or before 30th September, 2018.

15. With the aforesaid, the petition is disposed of.

RAJIV SAHAI ENDLAW, J

AUGUST 03, 2018

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