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

+ LPA 217/2018

DANI SINGH

..... Appellant

Through: Mr.Govind Jee, Adv.

Versus

GOVT OF NCT OF DELHI & ORS

..... Respondents

Through: Mr.Aditya Singhal, Adv. for R-1.

Mr.Rajeshwar Singh, Adv. for R-2/DMRC.

Mr.Saroj Bidawat, Adv. for L&DO.

Mr.Arun Birbal, Adv. with Mr.Sanjay Singh, Adv.
for DDA.

CORAM:

HON'BLE THE CHIEF JUSTICE

HON'BLE MR. JUSTICE V. KAMESWAR RAO

ORDER

20.11.2018

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Seeking exception to an order dated 02.11.2017 passed by the Writ Court in W.P.(C) No.6705/2013, this appeal has been filed under clause 10 of the Letters Patent. It was the case of the petitioner before the Writ Court that petitioner was a tenant in a premises admeasuring 125 sq.yds. forming part of an establishment styled as Raj Coal Depot. It was the case of the petitioner that he had taken the said premises on lease from one Sh. Vinod Gupta and in part of the premises, Sh. Vinod Gupta was in occupation and was running the establishment, namely, Raj Coal Depot. It is stated that after the area in question which is located on a pocket of land which was required for construction of Mukundpur-Yamuna Vihar Corridor for the constriction of INA Metro Station, the land was handed over by L&DO on a temporary basis. Grievance of the appellant is that Raj Coal Depot was

relocated to another location at INA Market for a period of four years and now after completion of the construction of the station, Raj Coal Depot would be shifted to the original location. Grievance of the writ petitioner was that even though Raj Coal Depot has been granted temporary relocation, the petitioner has not been granted the relocation as per the policy. The learned Writ Court examined the matter and came to the conclusion that for the same premises, two persons cannot be provided alternate accommodation. The landlord having been granted accommodation, the petitioner who was a tenant cannot be granted accommodation. Granting liberty to the petitioner to work out his remedy with the landlord, the writ petition was disposed of.

2. After issuing notice in the matter, this Court had called for a report from the Land & Development Office and the Deputy Land & Development Officer has filed an affidavit and in para 6 of the affidavit, finding recorded is that pursuant to the request of DMRC, land admeasuring 4432 sq.mtrs. at INA Market comprising various pockets were handed over to DMRC on temporary basis for a period of four years for construction of INA Metro Station. The report of the L&DO indicates that Raj Coal Depot was running its business in Pocket No.50, opposite Flat No.876, Laxmi Bai Nagar, New Delhi in an unauthorized manner after encroaching Government land. The finding recorded is that even the status of Raj Coal Depot is doubtful. DMRC admits that they have relocated Raj Coal Depot because this establishment was found in the site, but as the writ petitioner is neither the owner nor does he has any right to claim the same benefit as the landlord, his claim has been rejected taking note of the totality of the circumstances and the findings recorded by the L&DO to the effect that even Raj Coal

Depot is an encroacher, grant of benefit of relocation to him is doubtful. Now, in the facts and circumstances of the case when petitioner is not owner or who has not been granted possession by the competent authority with regard to the area in question and when he was only a tenant of Raj Coal Depot, the learned Writ Court has not committed any error in dismissing his writ petition.

3. The petitioner has no right for claiming the benefit of relocation as per the policy once it is found that no land was allotted to him and when even the allotment to his landlord M/s Raj Coal Depot is under cloud. Accordingly, finding no ground, the appeal stands dismissed.

CHIEF JUSTICE

V. KAMESWAR RAO, J

NOVEMBER 20, 2018

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