

\$~12 & 13

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

W.P.(C) 7312/2005 & CM No.21214/2018 (of respondents u/S 151 CPC)

DELHI DEVELOPMENT AUTHORITY Petitioner

Through: Mr. Rajiv Bansal, Sr. Adv. with Ms. Shobhna Takiar and Ms. Fiza Saluja, Advs.

Versus

BADARPUR TRADERS UNION & ORS. Respondents

Through: Mr. Arun Bhardwaj, Sr. Adv. with Mr. Karn Bhardwaj and Mr. Karan Yadav, Advs.

AND

+ W.P.(C) 5424/2008 & CM No.20762/2018 (u/S 151 CPC)

BADARPUR TRADERS UNION (REGD.) Petitioner

Through: Mr. Arun Bhardwaj, Sr. Adv. with Mr. Karn Bhardwaj and Mr. Karan Yadav, Advs.

Versus

DELHI DEVELOPMENT AUTHORITY & ANR. Respondents

Through: Mr. Rajiv Bansal, Sr. Adv. with Ms. Shobhna Takiar and Ms. Fiza Saluja, Advs. for DDA.

CORAM:

HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW

ORDER

%

25.09.2018

1. This order is in continuation of the orders dated 19th July, 2018, 8th August, 2018 and 4th September, 2018.

2. The senior counsel for Badarpur Traders Union (Regd.) (BTU) states that he has instructions to withdraw W.P.(C) No.5424/2008 because since

W.P.(C) 5424/2008 & W.P.(C) 7312/2005

Page 1 of 3

the filing of the said petition, a lease deed has been executed by Delhi Development Authority (DDA) in favour of BTU and the relief seeking which W.P.(C) No.5424/2008 was filed, stands granted.

3. The senior counsel for DDA states that a decision has been taken to take appropriate proceedings for annulment of the lease deed which has been executed in favour of BTU. The senior counsel for DDA however states that while disposing of this petition in terms of earlier orders, it be clarified that none of the observations in the orders, in continuation of which this order is being made, would prejudice the rights of DDA.

4. The senior counsel for BTU states that similar observation be made with respect to rights of BTU also.

5. I have further enquired from the senior counsels, as to what will be the position, in the event of DDA ultimately succeeding in the proceedings intended to be initiated for annulment of the lease deed.

6. After hearing the senior counsels, it is deemed appropriate to, with respect thereto, provide that it will be open to DDA to then take appropriate action including of challenging the order of the District Judge impugning which W.P.(C) No.7312/2005 was filed.

7. W.P.(C) No.5424/2008 is thus dismissed as withdrawn.

8. W.P.(C) No.7312/2005 is disposed of as infructuous in view of subsequent events, as aforesaid.

9. It is clarified that none of the observations contained in the orders dated 19th July, 2018, 8th August, 2018, 4th September, 2018 and today's order shall prejudice any of the parties in the proceedings which DDA intends to take for annulment of the lease deed executed by DDA in favour

of BTU.

10. The senior counsel for DDA states that after the order of the District Judge impugned in W.P.(C) No.7312/2005, the Supreme Court has pronounced on the subject and it be thus clarified that the order of the District Judge impugned in W.P.(C) No.7312/2005 shall also not influence the decision in the proceedings intended to be taken by DDA for annulment of the lease deed aforesaid.

11. The senior counsel for BTU states that he has no instructions regarding the order, if any of the Supreme Court.

12. Suffice it is to clarify that the District Judge, while passing the order aforesaid, was acting as an Appellate Officer under Section 9 of the Public Premises (Eviction of Unauthorised Occupants) Act, 1971 and the jurisdiction of the District Judge was thereby circumscribed and it will be open to the parties to raise appropriate contentions in this regard in the proceedings intended.

No costs.

RAJIV SAHAI ENDLAW, J.

SEPTEMBER 25, 2018

bs..