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

+ **W.P.(C) 3085/2016**

SHEIKH MUMTAZ AHMAD

..... Petitioner

Through Ms Zubeda Begum, Ms Sana Ansari,
Advocates.

versus

UNION OF INDIA AND ORS

..... Respondents

Through Mr Vikas Mahajan, CGSC with
Mr Aakash Varma, Mr Deepak Goyal,
Mr Yantakshikaa Sharma, Advocates.
Mr Mohan Kr Sharma, Law Officer Enemy
Property.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

ORDER

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08.10.2018

1. The petitioner has filed the present petition impugning the order dated 27.07.2015 issued under Section 12 of the Enemy Property Act, 1968 whereby the property described as X/1551 to 1554 (Old), X/2240 to 2242 (New) located at Mohalla Turkman Gate, Gali Dakotan, Delhi has been held to be an enemy property thus, vesting the same with the Custodian of the Enemy Property of India.
2. It is contended that the respondent has not followed the procedure as provided and further, has not considered any of the contentions advanced on

behalf of the petitioner. It is seen that Rules 3 and 4 of the Enemy Property Rules, 2015 provide for the procedure for identification of immovable properties. The learned counsel appearing for the petitioner states that the said procedure has not been followed.

3. The learned counsel appearing for the respondent submits that in the present case a show cause notice was issued on 18.10.2010, which was prior to the said Rules coming into force. He further, submits that the petitioner had also responded to the show cause notice and filed several documents. He contends that since the proceedings had already commenced, the said Rules would not be applicable. Insofar as the impugned order being bereft of any reasons is concerned, he submits that the respondent would withdraw the said order without prejudice to rights and contentions of the parties and pass a speaking order.

4. In view of the above, the impugned order is treated as withdrawn. The petitioner would appear before respondent no.3 on 30.10.2018. Prior to this, the petitioner would also be at liberty to file detailed submissions and other documents, which the petitioner seeks to rely on. The concerned Authority shall hear the petitioner and pass a reasoned order.

5. It is also clarified that all contentions of the parties are open including the contention that the respondent is required to follow the procedure as set out in the Enemy Property Rules, 2015 prior to passing any order under the said Act.

6. It is further, directed that the petitioner shall not transfer, encumber, part with or in any manner alienate the property in question, till the conclusion of the proceedings.

7. The petition is disposed of with the aforesaid observations.
8. Order *dasti* under the signature of Court Master.

VIBHU BAKHRU, J

OCTOBER 08, 2018

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