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

+ **W.P.(C) 4072/2018**

LEELA DEVI

..... Petitioner

Through: Mr Prashant Katara and Mr Soin
Khan, Advocates.

versus

**SUB DIVISIONAL MAGISTRATE (S.D.M)
AND ANR.**

..... Respondents

Through: Mr Sanjeev Rali with Ms Nitika
Khanna, Advocates for R-2/DPCC.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

ORDER

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08.08.2018

CM No.31788/2018

1. This is an application for early hearing. The said application is allowed and the petition is taken up for hearing.

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2. The petitioner has filed the present petition, *inter alia*, impugning an order dated 23.09.2017 issued by respondent no.1 directing sealing the premises bearing no.50-D, Hauz Khas Village, New Delhi-110016 (hereafter 'the premises'), owned by the petitioner. It is stated that the said premises were leased to M/s The Theory Foods (a partnership firm), which commenced the business of a restaurant under the name and style "The Big Burp Theory." Apparently, the said unit was being run contrary to the

provisions of Section 33(A) of the Water (Prevention and Control of Pollution) Act, 1974 and Section 31(A) of the Air (Prevention and Control of Pollution) Act, 1981. Accordingly, a show cause notice was issued to the said unit, which was followed by a closure order dated 21.07.2017.

3. It is the petitioner's case that the said tenant, namely, M/s The Theory Foods vacated the premises and thereafter the premises were leased to another tenant (Smt. Sangeeta). The said tenant had applied for Consent to Establish (CTE). However, she has also terminated the lease.

4. Currently, the premises in question are not leased to any entity; the same are in the possession of the petitioner and no business is being carried on from the premises. The petitioner states that at the present there is no proposal to commence any restaurant or eating house from the premises.

5. Clearly, the premises in question cannot remain sealed indefinitely. In the given circumstances, this Court is of the view that the continuation of the sealing order is not warranted.

6. However, the petitioner must ensure that the premises are not used in any manner, which violates any law including the Water (Prevention and Control of Pollution) Act, 1974 and the Air (Prevention and Control of Pollution) Act, 1981.

7. In this view, the petitioner shall furnish an undertaking to this Court by way of an affidavit that she shall ensure that the premises in question are not used in violation of any law including the Water (Prevention and Control of Pollution) Act, 1974 and the Air (Prevention and Control of Pollution) Act, 1981. The petitioner shall further affirm that if the premises are let out the petitioner shall ensure that the relevant laws are followed and if the

tenant is not following the same the petitioner shall take immediate steps to inform the concerned authorities. Subject to the aforesaid undertaking being filed, the respondent shall de-seal the premises.

8. A copy of the present order as well as the undertaking be furnished by the petitioner shall be forwarded to the SDM (respondent no.1).

9. No further orders are required to be passed in this petition. The same is disposed of.

10. The date of hearing already fixed as 03.10.2018 stands cancelled.

11. Order *dasti* under signatures of the Court Master.

VIBHU BAKHRU, J

AUGUST 08, 2018
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