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

\+ W.P.(C) 6309/2018

MRS. APARNA KAPOOR ..... Petitioner

Through: Mr.Gaurav Sarin, Mr.S.K. Rout, Mr.Aman Mehrotra, Mr.Harish Kumar and Mr.Abhishek Manchanda, Advs.

versus

UNION OF INDIA AND ORS. ..... Respondents

Through: Mr.Chiranjeev Kumar, Advocate for R-1.
Mr.Pravesh Thakur, Adv. for R2&3.

CORAM:
HON'BLE MS. JUSTICE REKHA PALLI

O R D E R

% 31.05.2018

C.M. No. 24258/2018 (for exemption)

Allowed, subject to all just exceptions.

The application stands disposed of.

W.P.(C) 6309/2018 & C.M. No. 24257/2018

Vide the present petition, the petitioner impugns the order dated 19th January, 2018 passed by the Revenue Assistant/Sub-Divisional Magistrate, Saket, District-South, GNCTD Delhi, ordering ejectment of the petitioner from the land and structure in her possession in Dr. Ambedkar Colony, Andheria More, Chattarpur, Delhi.

Mr. Gaurav Sarin, learned counsel for the petitioner, vehemently submits that the said order is in the teeth of the provisions of National Capital Territory of Delhi Laws (Special Provisions) Act, 2011 (hereinafter

referred to as the "NCTDL Act"). He draws my attention to the order dated 18th August, 2000, passed by this Court in Writ Petition bearing WP(C) No.3993/2000 filed by Pragati Sheel Samaj Kalyan (regd.) along with a number of individuals including the petitioner's father Sh. Praveen Nayyar. He submits that the order dated 18th August, 2002 passed in the aforesaid writ petition clearly shows that the construction, in question, on the said land, has been existing at least from the year 2000 and that the petitioner's father was already occupying the said premises when the order dated 18th August, 2000 was passed.

Mr. Sarin submits that since the impugned order passed by the Revenue Assistant was an *ex parte* order, the petitioner has, on 21st May, 2018, filed an application seeking recall of the impugned order but till date, the same has not been fixed for hearing.

After some arguments, Mr. Sarin submits that keeping in view the fact that the petitioner's application seeking recall of the impugned order, is still pending before the Revenue Assistant at this stage, the petitioner would be satisfied in case, she is permitted to file an additional affidavit before the Revenue Assistant urging additional grounds in support of her recall application. He further prays that keeping in view the fact that the petitioner has been occupying the premises in question for the last almost 25 years, the respondent may be directed not to take any coercive action against the petitioner till her recall application is decided by the Revenue Assistant.

Learned counsel for the respondent, who appears on advance notice, assures the Court that the concerned Revenue Assistant will decide the petitioner's recall application expeditiously.

Having considered the submissions made by learned counsel for the

parties, I am of the considered view that the prayer made by learned counsel for the petitioner is just and fair. Accordingly, the petitioner is permitted to file an additional affidavit urging additional grounds whereafter the concerned Revenue Assistant will after following due procedure of law, decide the petitioner's recall application by passing a reasoned and speaking order dealing with all issues raised by the petitioner including the plea regarding the applicability of the NCTDL Act. It is further directed that till the petitioner's application is decided by the Revenue Assistant, the respondent will not take any coercive action against the petitioner.

The petition along with the pending application, is accordingly disposed of in the aforesaid terms.

Dasti under the signature of the Court Master.

REKHA PALLI, J.

MAY 31, 2018
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