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

+ W.P.(C) 8144/2018

MOHD MURSALEEN @ MUNNA

..... Petitioner

Through: Mr M. K. Khan, Advocate.

versus

MOHD AFZAL

..... Respondent

Through: Ms Mini Pushkdarna, Standing
Counsel for DUSIB with Ms Swagata
Bhuyan and Ms Shiva Pandey,
Advocates.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

ORDER

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06.08.2018

CM No.31215/2018

1. Allowed, subject to all just exceptions.

W.P.(C) 8144/2018 & CM No.31214/2018

2. The petitioner has filed the present petition impugning an order dated 16.04.2018 passed by the Competent Authority (DUSIB) under Section 19 of the Slum Area (Improvement and Clearance Act), 1956 (hereafter 'the Slum Act') permitting respondent no.2 to institute appropriate proceedings for eviction of the petitioner from a shop described as Municipal Shop no. 757, Ground Floor, Motor Market, Kabadi Bazar, Jama Masjid, Delhi. It is the case of the petitioner that respondent no.2 is not the owner of the property in question and, there is no relationship of landlord and tenant

between the petitioner and respondent no.2.

3. This Court, has in a number of decisions, held that thrust of the examination under Section 19 of the Slum Act is to consider the factors that are set out in Section 19(4) of the Slum Act. The Competent Authority has to determine whether the tenant would have the means to find an alternative accommodation if evicted and whether eviction of the tenant would be in the interest of clearance of slum areas. In the present case, the Competent Authority found that the petitioner is running three shops and, therefore, concluded that he is a person of means. The petitioner has also not produced any material on record to controvert the said position. All other disputes relating to whether respondent no.2 is entitled to evict the petitioner would have to be examined by the concerned Court.

4. At this stage, learned counsel appearing for the petitioner seeks to withdraw the present petition while reserving his rights to raise all disputes before the concerned Court including that respondent no.2 is not the owner of the property in question.

5. The petition is dismissed as withdrawn. The pending application is, accordingly, disposed of. All contentions of the parties are reserved.

VIBHU BAKHRU, J

AUGUST 06, 2018
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