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

+ **W.P.(C) 7338/2016**

ANIL KUMAR

..... Petitioner

Through Mr J.R. Rana, Advocate.

versus

EXECUTIVE DIRECTOR, TAURUS SHOPPING
ARCADE & ORS

..... Respondents

Through Mr Ankur Chhibber, Mr Bhanu Gupta,
Mr Akshat Singh, Advocates for respondents.
Mr Kirtiman Singh, Mr Prateek Dhanda, Mr
Waize Ali Noor, Mr Vikramaditya Singh,
Mr Shruti Dutt, Advocates for R3 and R4.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

ORDER

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18.09.2018

1. The petitioner has filed the present petition under Article 226 of the Constitution of India, *inter alia*, impugning the order dated 31.08.2015 (hereafter 'the impugned order') passed by the Executive Director, Taurus Shopping Arcade (respondent no.1), whereby respondent no.1 has rejected the application preferred by the petitioner for allotment of a shop in Taurus Shopping Arcade.
2. The petitioner is an Ex-serviceman and retired from his services with the Indian Army in December, 2007.
3. In February 2008, the petitioner applied for allotment of a shop in

Taurus Shopping Arcade. Pursuant to his application, he was allotted a shop (Shop No.7) in the Taurus Shopping Arcade. On 01.04.2013, the petitioner and respondent no.1 entered into the 'Leave Licence Agreement' whereby the petitioner was granted the licence to use the shop in question for a period of six months. The said period expired on 30.09.2013.

4. Although, the petitioner had stated in his petition that he was allotted Shop No. 9, the Leave License Agreement indicates that the petitioner was allotted Shop No. 7 in the Taurus Shopping Arcade admeasuring approximately 300 sq. feet. However, the said discrepancy in the description of the shop in question is not material for considering the issues involved in this petition.

5. On 13.01.2014, respondent no.1 issued a letter to the petitioner asking the petitioner to vacate the premises at Taurus shopping Arcade as the contract – Leave and Licence agreement dated 01.04.2013 – had expired on 30.09.2013.

6. The petitioner complied with the said notice and vacated the said premises in question on 31.07.2014. The petitioner claims that thereafter the petitioner became aware that the said shops were being re-allotted and, therefore, on 23.02.2015, the petitioner sent a letter seeking allotment of the shop to be used for selling readymade garments. It is stated that the petitioner's application was rejected by a communication dated 31.08.2015.

7. The petitioner rests his case on the Defence Shopping Complexes (Maintenance & Administration) Rules, 2006 ('the said Rules'). It is the case of the petitioner that in terms of the said Rules, 60% of the Shops in

shopping complexes are required to be reserved for (i) War-Widows/Widows of Defence Personnel killed while on duty; (ii) disabled soldiers; (iii) Ex-servicemen; and (iv) spouses/widows of Ex-servicemen. Further, the reservation is also in that order of priority. The petitioner claims that the Shopping Arcade in question has about eighteen shops out of which only two shops have been allotted to the persons belonging to the categories as indicated above.

8. The opening paragraph of the said Rules indicates that the said Rules do not apply to the regimental shops, which are set up exclusively for military personnel and their families. The said opening paragraph is set out below:-

“Preliminary

“These Rules shall apply to such shopping complexes which have been established on A-1, or analogous defence land which are under the management of Local Military Authorities and covered under GOI, MoD letter No. 11026/5/2000/ D(Lands) dated 4.1.2001, save as provided hereinunder:

(i) These Rules shall not apply to regimental shops which are created exclusively for military personnel & their families.”

9. In the affidavit filed on behalf of respondent no.1, it has been affirmed that the shops in question are regimental shops and do not fall within the description of ‘Shopping Complexes’ covered under the aforementioned Rules.

10. There is no material to doubt the assertion that the shops in question are regimental shops. Thus, in terms of the opening paragraph of the

Defence Shopping Complexes (Maintenance and Administration) Rules, 2006 (the said Rules), the same are inapplicable to the shops in question. It is also relevant to refer to the definition of the expression ‘Shopping Complex’ as defined under Clause (c) of Rule 2 of the said Rules. The said clause is set out below:-

“(c) Shopping Complex: A composite area comprising shops established on A-1 or analogous defence land under the management of the Army/Navy/Air Force, but would not include regimental shops which are created exclusively for military personnel and their families.”

11. It is clear from the definition of the term ‘Shopping Complex’ that the same does not include ‘regimental shops’.

12. In view of the above, the present petition is misconceived. Clearly, the petitioner has no right for being allotted a regimental shop.

13. In view of the above, the present petition is unmerited and is, accordingly, dismissed.

VIBHU BAKHRU, J

SEPTEMBER 18, 2018
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