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

+ W.P.(C) No.4531/2017 & CM No.19789/2017 (for stay).

RAKESH CHAND

....Petitioner

Through: Mr Avijit Mani Tripathi, Mr Shaurya Sahay and Mr Kumar Abhishek, Advocates.

Versus

**ESTATE OFFICER DELHI DEVELOPMENT
AUTHORITY**

....Respondent

Through: Mr Rajiv Bansal, Senior Standing Counsel with Mr Dhanesh Relan, Standing Counsel for the DDA with Ms Komal Soroul and Ms Kajri Gupta, Advocates.

CORAM:

HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW

ORDER

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09.08.2018

1. The counsel for the petitioner states:

(i) this petition under Articles 226 & 227 of the Constitution of India was preferred impugning the order of the District Judge, acting as the Appellate Officer under Section 9 of the Public Premises (Eviction of Unauthorized Occupants) Act, 1971, of dismissal of appeal preferred by the petitioner against the order of the Estate Officer of the respondent Delhi Development Authority (DDA) against the petitioner, of eviction of the petitioner; (ii) against the orders of dismissal of petitions of others identically placed as the petitioner in this petition, appeals were preferred to the Division Bench of this Court which were also dismissed and thereafter Special

Leave Petitions (SLPs) were preferred to the Supreme Court;

(iii) the Supreme Court has dismissed the SLPs vide order dated 20.03.2018 in SLP(C) no.5253/2018 titled ***Shiv Shankar & Others versus Delhi Development Authority & Another*** but has, subject to the petitioners therein filing an affidavit of undertaking to, on or before December, 2019, vacate and hand over peaceful vacant possession of the property in their respective possession and with respect to which orders of eviction have been passed, granted time to those petitioners to vacate the premises by then;

(iv) the petitioner does not want to pursue this petition and withdraws this petition and will remain bound by the eviction order subject matter of this petition, but seeks time to vacate as granted by the Supreme Court;

(v) that the petitioner is willing to file affidavit of undertaking in this regard, undertaking to, on or before 31st December, 2019 vacate and hand over vacant peaceful physical possession of the entire premises in his possession/occupation and/or with respect to which eviction order has been passed, to the respondent DDA and not to deal with the said premises in any other manner whatsoever and not to alienate, encumber or part with possession thereof to anyone else; and,

(vi) that this Bench also, vide order dated 24th July, 2018 in W.P.(C) 4428/2013, 4429/2013 & 4433/2013, has granted such time.

2. The senior counsel for the respondent DDA states:

- (i) that the grant of the time by the Supreme Court was only to the petitioners who had approached the Supreme Court;
- (ii) owing to such time being granted, the project of the respondent DDA is getting delayed and is suffering and which project itself is time bound in terms of direction of the National Green Tribunal;
- (iii) it will have to be verified whether the petitioner is similarly situated as the petitioners before the Supreme Court, to whom the Supreme Court granted time; and,
- (iv) the petitioners before the Supreme Court were members either of Delhi Peasants Co-operative Multi-Purpose Society or Jheel Khuranja Milk Producers Co-operative Society.

3. The counsel for the petitioner states that the petitioner is a member of either of the two societies and premises of the petitioner are not outside the premises of either of the two societies. He, however states that the petitioner, in the affidavit of undertaking, which will be filed, will furnish particulars in this regard.

4. I have enquired from the senior counsel for the respondent DDA that if the project of the respondent DDA is already held up owing to time having been granted to petitioners before the Supreme Court, whether it is the case of the respondent DDA that the location of the premises of this petitioner is such that any further delay would be caused. It is felt that if owing to any one of the persons to whom time has already been granted, the

project is already held up, it will not make any difference if the petitioner herein is also granted time.

5. The senior counsel for the respondent DDA states that he is immediately unable to state whether the location of the premises of the petitioner is such that grant of time to the petitioner would result in any additional delay in the project.

6. The senior counsel for the respondent DDA however states that the respondent DDA has already filed an application in the Supreme Court in this regard and pleadings wherein are being completed.

7. The apprehension of delay expressed by the senior counsel for the DDA can be taken care of by providing, that if on the application filed by the DDA before the Supreme Court, the Supreme Court makes any order for sooner vacation of the premises, the said order would be binding on the petitioner also.

8. The counsel for the petitioner is agreeable thereto.

9. Accordingly, the petition is dismissed as withdrawn.

10. However, subject to the petitioner, within four weeks of today, filing affidavit in this Court, with advance copy to counsel for DDA, giving particulars of membership of either of the two societies aforesaid and undertaking to this Court to, till December, 2019 hand over vacant peaceful physical possession of premises in his respective possession to the respondent DDA and to not deal with the said premises in any other manner whatsoever and not to alienate, encumber or part with possession thereof to

anyone else, the order of eviction from which this petition arises be not executed till December, 2019.

On such affidavits being filed, the undertaking contained therein shall stand accepted and the petitioner will be bound therewith.

If the petitioner does not file affidavit or the affidavit is not in terms of above, the respondent DDA shall be entitled to immediately enforce the order of eviction against the petitioner.

11. The petition is disposed of.

RAJIV SAHAI ENDLAW, J.

AUGUST 09, 2018

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