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

+ **W.P.(C) 9518/2018**

POISON (A UNIT OF FINO HOSPITALITY) Petitioner

Through Mr Prashant Katana, Mr Soin Khan,
Advocates.

versus

SUB DIVISIONAL MAGISTRATE (S.D.M)

AND ANR.

..... Respondents

Through Mr Sanjeev Ralli, Advocate for DPCC.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

ORDER

% **11.09.2018**

CM No. 37093/2018

1. Allowed, subject to all just exceptions.
2. The application is disposed of.

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3. The petitioner has filed the present petition, *inter alia*, praying as under:-

“Issue an appropriate writ of mandamus or any other writ, directing the respondent no. 1 to desal the premises bearing address “poison, located at 30, third and fourth floor, hauz khas village, new delhi-110016 for a period of 15 days, enabling the petitioner to recover its furniture, machinery and equipment’s etc.”

4. The petitioner was running a restaurant at the premises bearing no. 30,

Third and Fourth floor, Hauz Khas Village, New Delhi-110016. The said premises was sealed as it was found that the petitioner was violating the provisions of the Air (Prevention & Control of Pollution) Act, 1981 and the Water (Prevention & Control of Pollution) Act, 1974.

5. The learned counsel appearing for the petitioner states that the petitioner wants to permanently close down the said unit. He requests that the unit be de-sealed to enable the petitioner to remove the equipment installed at the said premises.

6. The learned counsel appearing for the petitioner has also drawn the attention of this Court to the Office Order dated 02.08.2017. Clause (v) of the said circular reads as under:-

“(v) If the unit applies for time to permanently remove the plant and machinery to close down the unit, the permission shall be granted for 15 days to do so and premises will be de-sealed if already sealed. However, the Electricity/Water connection shall remain disconnected.”

7. He submits that since the petitioner wants to permanently remove the plant and machinery to close down the unit, the premises ought to be de-sealed as provided under the aforesaid Office Order dated 02.08.2017.

8. The learned counsel for the respondents states that the present petition is not maintainable and the petitioner is required to seek such permission from the concerned Committee.

9. In view of the above, the present petition is disposed of by permitting the petitioner to approach the Delhi Pollution Control Committee for seeking the necessary permission to remove the machinery from the said premises in terms of paragraph (v) of the Office Order dated 02.08.2017. It

is further directed that in the event the petitioner files such an application within a period of two weeks from today, the same would be considered and disposed of within a period of two weeks thereafter.

10. Needless to state that if the petitioner is aggrieved by any such decision, the petitioner would be at liberty to avail such remedies as available in law.

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

VIBHU BAKHRU, J

SEPTEMBER 11, 2018

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