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

% *Date of decision: 26th November, 2018*

\+ LPA 649/2018, CM No. 48564/2018

ANIL KUMAR ..... Appellant

Through: Mr. J.R. Rana, Mr. Gaurav Sehrawat and Mr. Abhinav, Advs.

versus

EXECUTIVE DIRECTORS, TAURAS SHOPPING ARCADE & ORS ..... Respondents

Through:

CORAM:
HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE V. KAMESWAR RAO

V. KAMESWAR RAO, J. (ORAL)

CM No. 48564/2018 (for delay)

This is an application filed by the appellant seeking condonation of 11 days delay in filing the present appeal. For the reasons stated in the application, the delay of 11 days in filing the appeal is condoned. Application stands disposed of.

LPA 649/2018

1. The present Intra Court appeal has been filed by the appellant challenging the order dated September 18, 2018 passed by the learned Single Judge in W.P. (C) 7338/2016, whereby the learned Single Judge has dismissed the petition filed by the appellant herein.

2. The facts as noted from the record are that the appellant is an Ex-serviceman and retired from his services with the Indian Army in December 2007. In February 2008, the appellant applied for allotment of a shop in Taurus Shopping Acrade. Pursuant to his application, he was allotted a shop (Shop No.7) in the said Arcade. On April 01, 2013, the appellant and the respondent No.1 entered into the 'Leave License Agreement' whereby the appellant was granted the license to use the shop in question for a period of six months. The said period expired on September 30, 2013.

3. On January 13, 2014, the respondent No.1 issued a letter to the appellant asking the appellant to vacate the premises as the contract, Leave and License Agreement dated April 01, 2013 had expired on September 30, 2013. The appellant vacated the premises in question on July 31, 2014. It was the case of the appellant that thereafter, he became aware that the said shops were being re-allotted and, therefore, on February 23, 2015, he sent a letter seeking allotment of the shop to be used for selling readymade garments. The said request was rejected by a communication dated August 31, 2015.

4. The learned counsel for the appellant had relied upon the Defence Shopping Complexes (Maintenance & Administration) Rules, 2006. It was the case of the appellant that in terms of the said Rules, 60% of the Shops in the shopping complexes are required to be reserved for (i) War-Widows / Widows of Defence Personnel killed while on duty; (ii) displaced soldiers; (iii) Ex-servicemen; and (iv) spouses / widows of Ex-servicemen.

5. It was the case of the appellant that out of 18 shops, only two shops have been allotted to the persons belonging to the aforesaid categories. The issue arose before the learned Single Judge whether the shops are covered by the Rules of 2006 as relied upon by the appellant. There is a finding of the learned Single Judge in the negative. This aspect has been conceded by the learned counsel for the appellant during arguments. His only submission is by relying upon a Policy dated November 21, 1998 to contend that there is a reservation in the allotment of regimental shops, that too 100%.

6. On a specific query that the Policy relied upon by him does not stipulate 100% reservation for War-Widows and Ex-servicemen and is there any other instruction stipulating so, the learned counsel

for the appellant could not point out anything in that regard. In the absence of any Policy reserving 100% regimental shops in favour of War-Widows / Ex-servicemen, this plea of the learned counsel for the appellant is without merit.

7. That apart, we note even, the policy of November 21, 1998 only observes that keeping in view the general unemployment situation in the country, self-employment of Ex-servicemen and War-Widows is being encouraged by Directorate of Re-settlement, instructions have therefore, been issued by the Head Quarters for allotment of regimental shops to War-Widows and Ex-servicemen. This stipulation does not specify any quota to be reserved for War-Widows and Ex-servicemen. Further, there is no dispute that out of 18 shops, two shops have been allotted to Ex-servicemen / War-Widows.

8. If that be so, we do not find any merit in the appeal, the same dismissed.

V. KAMESWAR RAO, J

CHIEF JUSTICE

NOVEMBER 26, 2018*/aky*