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

+ LPA 671/2018 & C.M.No.50685/2018

GIFT CENTRE(KHUSHAL) Appellant

Through: Mr.Sanjay Gupta, Adv.

Versus

INDIA TOURISM DEVELOPMENT
CORPORATION LTD & ANR

..... Respondents

Through: None.

+ LPA 672/2018 & C.M.No.50689/2018

M A RAMZANA Appellant

Through: Mr.Sanjay Gupta, Adv.

Versus

INDIA TOURISM DEVELOPMENT
CORPORATION LTD & ANR

..... Respondents

Through: None

CORAM:

HON'BLE THE CHIEF JUSTICE

HON'BLE MR. JUSTICE V. KAMESWAR RAO

ORDER

% 04.12.2018

C.M.No.50686/2018 (exemptions) in LPA 671/2018

C.M.No.50690/2018 (exemptions) in LPA 672/2018

Allowed, subject to all just exceptions.

LPAs No.671/2018 & 672/2018

1. Seeking exception to an order dated 25th September, 2018 passed by the Writ Court in W.P.(C) No.4560/2018 and 4768/2018, these appeals have been filed under Clause 10 of the Letters Patent Act. The dispute in both the writ petitions was with regard to damages awarded @Rs.500/- per sq. ft. per month by the statutory authority in exercise of the powers available

under Section 7 of the Public Premises (Eviction of Unauthorized Occupants) Act, 1971 (for short 'PP Act'). Initially damages @ Rs.500/- per sq. ft. per month under Section 7 of the PP Act was imposed by the statutory authority but on an appeal being filed, the District Judge has reduced the same from Rs.500/- to Rs.370/- per sq. ft. per month. Even the reduction to Rs.370/- per sq. ft. per month being approved by the learned Writ Court, these appeals have been filed challenging the impugned orders of the learned Writ Court.

2. Even though the learned counsel argued that various licensees are paying license fee of Rs.250/- per sq. ft. per month charging Rs.350/- or Rs.370/- per sq. ft. per month from the appellants is unsustainable and discriminatory. However, we find that both, the learned Writ Court and the statutory appellate authority under Section 9 of the PP Act, namely, the District Judge have gone into this question and found that the appellants were aware of the date till which they were entitled to occupy the premises, i.e., till 31st January, 2018 and 29th February, 2018 respectively. They did not vacate the premises even thereafter and continued to be in unauthorized use and occupation of the property exposing themselves to the liability of payment of damages under Section 7 of the PP Act. Further finding is that the appellant themselves by various letters consented to pay license fee of Rs.350/- per sq. ft. per month from 1st February, 2018. The damages are nothing but *mesne* profits and a person in wrongful possession of such property is required to pay it. The appellants having already offered the license fee @ Rs.350/- per sq. ft. per month while seeking renewal of the license were bound by the same. Further, it was found that the Central Bank of India which was also functioning in the same premises is paying a sum of

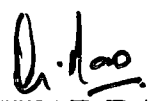
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Rs.350/- per sq. ft. per month as license fee.

3. Taking note of the totality of the circumstances a detailed order has been passed upholding the action of the respondents as modified by the District Judge and we see no reason to make an indulgence into the matter as the license fee determined by the District Judge and approved by the learned Writ Court are based on the appellant's own offering made and the rate being paid by certain licensees, like Central Bank of India, for the same area and concurrent findings in this regard recorded by the statutory appellate authority and the writ Court cannot be said to be perverse or illegal to such an extent that interference is called for .

4. The appeals are, therefore, dismissed. The pending applications are also disposed of.


CHIEF JUSTICE


V. KAMESWAR RAO, J

DECEMBER 04, 2018

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