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

+ W.P.(C) 8812/2015 and C.M. Appl. 19670/2015

SUSHEEL KUMAR PANDIT Petitioner

Through: Mr. Rajinder Wali, Advocate

versus

UNION OF INDIA & ORS Respondents

Through: Mr. Vikas Mahajan, CGSC and Mr.
Shyam Sundar Rai, Advocates

CORAM:

HON'BLE MR. JUSTICE J.R. MIDHA

ORDER

% **01.02.2018**

1. The appellant has challenged the eviction order dated 18th August, 2015 passed by the Estate Officer directing the petitioner to vacate the government quarter Sector-2, No.29/1A, DIZ Area, New Delhi.
2. Learned Standing Counsel for Central Government submits that the petitioner has a remedy of appeal against the impugned order under Section 9 of the Public Premises (Eviction of Unauthorised Occupants) Act, 1971 and, therefore, this appeal is not maintainable.
3. Learned counsel for the petitioner submits that the writ petition before this Court is maintainable in view of the judgment dated 30th November, 2010 passed by this Court in ***P.K. Koul v. Estate Officer*** in W.P.(C) 15239/2004 and the Division Bench judgment dated 01st June, 2012 in ***Union of India v. Vijay Mam*** in LPA 332/2011. Without prejudice to the above submission, learned counsel for the petitioner submits, on instructions, that the limitation may come in the way of the petitioner filing an appeal at this stage. It is further submitted that the petitioner filed its writ petition on 09th September, 2015 and the interim protection was granted to him on 21st September, 2015 and the interim order is continuing till date. It

is submitted that the petitioner be protected till the disposal of the appeal.

4. In the facts and circumstances of this case, the writ petition is dismissed as withdrawn with liberty to the petitioner to file an appeal under Section 9 of the Public Premises (Eviction of Unauthorised Occupants) Act, 1971. If the appeal is filed within 12 days of receiving the copy of this order, the limitation shall not come in his way and the appeal shall be heard on merits. Considering that the petitioner was protected by this Court since 2015, the respondent shall withhold any coercive action against the petitioner till the disposal of the appeal. However, the petitioner shall not create any third party interest in respect of the subject quarter till the disposal of the appeal.

5. Learned counsels for both the parties agree not to seek any unnecessary adjournments before the appellate Court. In that view of the matter, the District Judge shall expedite the hearing of the appeal and endeavour to decide the matter within a period of 9 months from the date of filing of the appeal.

6. It is clarified that this Court has not expressed any opinion on the merits of this case and, therefore, nothing recorded herein shall be construed to as an expression of an opinion on the merit of this case.

7. Pending application is disposed of.

8. Copy of this order be given *dasti* to counsels for the parties under signatures of the Court Master.

J.R. MIDHA, J.

FEBRUARY 01, 2018

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