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

+ W.P.(C) 3532/2019

VINOD KUMAR GUPTA Petitioner

Through: Mr Girish Aggarwal and Mr
Abhishek Aggarwal, Advocates.

versus

DELHI URBAN SHELTER IMPROVEMENT
BOARD & ORS

..... Respondents

Through: Mr Parvinder Chauhan and Mr Nitin
Jain, Advocates for DUSIB.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

ORDER

% **08.04.2019**

CM No. 16201/2019

1. Allowed, subject to all just exceptions.

W.P.(C) 3532/2019 & CM No.16200/2019

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

“a) That a writ in the nature of Mandamus and Certiorari may kindly be issued in favour of the petitioner and against the respondent nos. 1 to 3 directing that the property bearing no. 2663 having old no. 1731 C, Zere Fasil, Bazaar Sitaram, Delhi- 110006 was never acquired, hence the proceedings pending under The Public Premises [Eviction of Unauthorised Occupants) Act, 1971 or under The Delhi Urban Shelter Improvement Board Act, 2010 are null and void ab initio and may kindly be pleased to quash the proceedings taken under the said Acts;

- b) A writ in the nature of mandamus or certiorari may kindly be issued declaring that the notice dated 25.09.2017 is not tenable in law; hence, the same may kindly be ordered to be quashed and the entire records pending before the respondent no. 2 may kindly be called before this Hon ble Court for kind perusal;

3. The petitioners are in occupation of a property bearing no.2663 (Old no.1731 C), Zere Fasil, Bazar Sitaram, Delhi-110006. DUISB claims the said property to be public premises and had commenced proceedings under the Public Premises (Eviction of unauthorized Occupants) Act, 1971. An order dated 30.08.2006 was passed by the concerned Estate Officer calling upon the petitioner to vacate the said premises within a period of 15 days.

4. The petitioner had preferred an appeal against the said order, which was disposed of by an order dated 01.08.2014. By the said order dated 01.08.2014, the matter was remanded to the Estate Officer for affording the petitioner (the appellant therein) an opportunity to produce documents and for fresh consideration of the matter. The Additional District Judge/the Appellate Authority had further directed that physical inspection of the property be undertaken and the petitioner was directed to cooperate with the Estate Officer.

5. Thereafter, the petitioner's mother filed a suit (CS(OS) 3441/2015) in this Court, *inter alia*, claiming that the property in question was not acquired and, therefore, the same could not be considered as public premises. The petitioner claims that in the said petition, DUSIB has filed an affidavit acknowledging that DUSIB does not have any documents pertaining to the property in question.

6. In the meanwhile, the Estate Officer issued a notice dated 25.09.2017,

calling upon the petitioner to show cause as to why an order for evicting the petitioner from the property in question, not be passed. Aggrieved by the aforesaid notice, the petitioner preferred an appeal under Section 45 of the Delhi Urban Shelter Improvement Board Act, 2013 before the Hon'ble Lieutenant Governor. The said appeal was disposed of by an order dated 12.09.2018, by remanding the matter to the Director (DUSIB) for further adjudication as per law. Concededly, the petitioner's application is now pending consideration before the Director (DUSIB).

7. In the aforesaid view, this Court does not consider it apposite to entertain the present petition. The Director (DUSIB) shall consider the petitioner's application and decide the same in accordance with law as in terms of the order dated 12.09.2018 passed by the Hon'ble Lieutenant Governor. Considering that the petitioner's application is pending consideration, it is directed that no coercive action be taken till the disposal of the said application.

8. Needless to state that all contentions of the parties are reserved. In the event the petitioner is aggrieved of any order passed by the Director (DUSIB), the petitioner is at liberty to avail of such remedies as available in law.

9. The petition is disposed of. The pending application is also disposed of.

VIBHU BAKHRU, J

APRIL 08, 2019

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