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

+ **W.P.(C) 8095/2019**

SHRI. MEHBOOB

..... Petitioner

Through: Mr Ankit Jain, Advocate.

versus

MOHD. SHAMIM

..... Respondent

Through

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

ORDER

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26.07.2019

CM APPL. 33551/2019

1. Exemption is allowed, subject to all just exceptions.
2. The application stands disposed of.

W.P.(C) 8095/2019 and CM No. 33550/2019

3. The petitioner has filed the present petition impugning an order dated 11.03.2019 passed by the competent authority under Section 19(1) of the Slum Areas (Improvement and Clearance) Act, 1956 (hereafter 'the Slum Act'). The petitioner is in occupation of a shop described as Shop No. 5652, Gandhi Market, Sadar Bazar, Delhi (hereafter 'the said property'). The respondent had filed an application under Section 19(1) of the Slum Act asserting that he was the owner of the said property being the legal heir of one Sheikh Mohd. Yunus.

4. The respondent claims that he had acquired title of the said property

by a registered will dated 13.01.1983 and a registered gift deed dated 13.02.1984 executed by Late Sheikh Mohd. Yunus (since deceased).

5. It is also claimed that the petitioner's father was the tenant in the said property but after the year 2010, neither the petitioner nor his father has paid any rent.

6. The petitioner's case is that the respondent has no title to the said property. According to the said petitioner, the property belonged to one Mohd. Daood, who had died intestate.

7. The competent authority had considered the above and noted that the petitioner had the requisite means to find an alternative accommodation if the petitioner was evicted. The petitioner contends that the competent authority had erred in proceeding on the basis that the respondent was the owner of the premises in question. He submits that the *prima facie* view of the competent authority is erroneous.

8. At this stage, it is necessary to refer to Section 19(4) of the Slum Act which reads as under:-

“19. Proceedings for eviction of tenants not to be taken without permission of the competent authority—

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(4) In granting or refusing to grant the permission under subsection (3), the competent authority shall take into account the following factors, namely:—

- (a) whether alternative accommodation within the means of the tenant would be available to him if

he were evicted;

- (b) whether the eviction is in the interest of improvement and clearance of the slum areas;
- (c) such other factors, if any, as may be prescribed.”

9. It is apparent from the Scheme of the Slum Act that the entire scheme for providing the permission from the competent authority is to ensure that the eviction of persons from the slum areas does not result in creating further slums which would obviously be the result if a person, who is evicted, does not have the means to arrange the alternative accommodation. Sub-section (4) of Section 19 of the Slum Act makes it explicit that the competent authority shall take into account whether an alternative accommodation, within the means of the tenant, would be available to him if he was evicted and that eviction is in the interest of improvement and clearance of the slum areas.

10. Clearly, the object of the Slum Act is not to create a parallel adjudicating mechanism for adjudicating the disputes between owners/landlords and tenants or persons claiming as such.

11. It is also material to note that, concededly, the petitioner is not the owner of the said property and has been unable to establish his right to occupy the same. The finding that the petitioner has the means to arrange alternative premises, if evicted cannot be faulted.

12. In view of the above, this Court finds no reason to interfere with the impugned order. All contentions to contest in proceedings that may be initiated by the respondents, including the assertion that the respondent is

not the owner / landlord of the premises in question, are open. And, the impugned order or any observations made therein does not preclude the petitioner from raising the defences. Needless to state that as and when raised, the same would be considered in accordance with law.

13. The petition is, accordingly, dismissed. The pending application is disposed of.

VIBHU BAKHRU, J

JULY 26, 2019
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