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

+ **W.P.(C) 8158/2019**

SHAMIM BANO

..... Petitioner

Through Mr Vijandra Kumar Verma,
Mr Yogendra Kumar Verma, Advocates with
petitioner in person.

versus

DELHI URBAN SHELTER IMPROVEMENT
BOARD (DUSIB) AND ORS.

..... Respondents

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

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

ORDER

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29.07.2019

CM APPL. 33796/2019

1. Allowed, subject to all just exceptions.
2. The application is disposed of.

W.P.(C) 8158/2019 & CM APPL. 33795/2019

3. The petitioner has filed the present petition, *inter alia*, impugning an order dated 08.08.2018 passed by the Appellate Authority (the Lieutenant Governor, Delhi) under Section 45 of the Delhi Urban Shelter Improvement Board Act, 2010.
4. The petitioner had filed the said appeal against the orders dated

16.02.2018 and 27.02.2018 passed by Delhi Urban Shelter Improvement Board (DUSIB), cancelling the allotment of the property bearing no. 137, Double Story, Welcome, Phase- III, Delhi-110053. The said property – plot admeasuring 16.485 sq. metres – was allotted by DUSIB to one Sh Satpal s/o Sh Jagan Nath on 03.08.1968 on leave and licence basis. The said property was allotted to rehabilitate Satpal on his removal from a *Jhuggi Jhopri* Cluster.

5. DUSIB's response to the appeal filed before the Appellate Authority has not been placed on record by the petitioner. However, a copy of the same has been handed over by Mr Chauhan, the learned counsel appearing for DUSIB.

6. A plain reading of the said response indicates that the licence granted to the original allottee expressly provided (i) that the allottee does not have any right to part with possession of the property in favour of any third party; (ii) that it did not have any right to carry out structural changes or alterations without written permission of DUSIB; and (iii) the allotment was only for residential purposes.

7. It appears that Sh Satpal sold the property and parted with possession in favour of one Hayat Nabi (respondent no.3). It is stated that, thereafter on 16.08.2012, respondent no.3 sought to transfer the property in question to Sh Rajesh Maan (respondent no.2) by executing a General Power of Attorney, Agreement to Sell, Deed of Will, etc.

8. The petitioner claims that she has acquired the property in question for valuable consideration from respondent no.2 through similar documents (Power of Attorney, Agreement to Sell, Deed of Will, etc.) duly executed by him in favour of the petitioner.

9. DUSIB alleges that the petitioner had not only acquired the possession of the said property illegally, but had further carried out illegal construction on the said property. In addition, she was also operating four shops from the said property. Thus, according to DUSIB, all the three conditions of the licence granted by DUSIB, as referred to above, were violated.

10. This Court is not required to examine the said allegations as the petitioner has been evicted on account of being in illegal possession of the same. There is no dispute that the property was granted on a licence basis and therefore Sh Satpal did not acquire any right except to use the same for residential purposes. The conditions of the licence in favour of the Sh Satpal has been violated, and thus DUSIB is well within its right to repossess the property in question.

11. It is also relevant to observe that permitting transfer of such properties would defeat the very purpose of the Scheme to rehabilitate the *JJ* dwellers. The rationale of providing such accommodation to *JJ* dwellers is to ensure that they have a place to stay on being removed. The persons so rehabilitated cannot use the property for commercial gains. Permitting such transfer would plainly defeat the object of the rehabilitation scheme.

12. In view of the above, this Court finds that there is no merit in this petition. The same is, accordingly, dismissed. The pending application is disposed of.

VIBHU BAKHRU, J

JULY 29, 2019/pkv