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

+ **W.P.(C) 8292/2019**

PRITAM SINGH KHATRI

..... Petitioner

Through: Mr Amit Sibal, Sr. Advocate with Mr
B. S. Bagga, Advocate.

versus

THE HON'BLE DISTRICT AND SESSION
JUDGE (EAST)

..... Respondent

Through: Mr Sanjay Dewan, Ms Nishima Arora
and Ms Shivani, Advocates.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

ORDER

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31.07.2019

CM No. 34340/2019

1. Allowed, subject to all just exceptions.

W.P.(C) 8292/2019 & CM No.34339/2019

2. The petitioner has filed the present petition, *inter alia*, praying that a writ of prohibition be issued to the respondent restraining it from taking possession of chamber no. D-206, Karkardooma Courts Complex, Delhi. It is pointed out that the said chamber was allotted to the petitioner's father, who has since expired. It is stated that the petitioner's wife (Sangeeta Khatri) and the petitioner's brother (Shri Kuldeep Singh Khatri) were also members of the Shahdara Bar Association and were operating from the said the chamber. The petitioner's brother has also since expired.

3. The petitioner's wife had filed a writ petition before this Court being

W.P.(C) 6653/2018, challenging the impugned proclamation for taking over the possession of the chamber in question. The said petition was also dismissed as the she had filed an application stating that (a) she was not a practicing advocate, and; (b) that she had never made any such application.

4. Mr Sibal, learned senior counsel appearing for the petitioner, submits that although the petitioner is not an advocate as yet, nonetheless, he would be entitled to allotment of the chamber allotted to his deceased father as and when he becomes an advocate. He has drawn the attention of this Court to the Proviso to Clause 5(b) of the District Courts Karkardooma Lawyer Chamber (Allotment and Occupancy) Rules, 1995, which reads as under:-

“b. No eligible advocate shall be allotted more than one chamber and no advocate, though otherwise eligible, may be allotted a chamber whose father/mother/sons/daughters or whose husband/wife is an allottee of lawyers chamber in the Supreme Court, the High Court of Delhi or at the Tis Hazari Court or Patiala House Court Complex. In case decision of the District & Sessions Judge, Incharge, Karkardooma Courts, Delhi shall be final.

Provided that the District & Sessions Judge, Incharge, Karkardooma Courts, Delhi may, in consultation with the Allotment Committee, in exceptional circumstances, allot a chamber to an advocate otherwise eligible under Rule 3 whose father/mother/son/daughter or whose husband or wife (as the case may be) is an allottee/joint allottee of a chamber in any court complex in Delhi.

(Amended vide letter No.____ II/Sub. Courts/22.3.97)

(Provided further that in the event of the death of an allottee/joint allottee of a chamber, the father/mother/son/daughter or husband/or wife (as the case may be) of the deceased allottee shall, if otherwise eligible under

Rule 3, be entitled to allotment/joint allotment of the same chamber in place of the deceased allottee).”

5. He states that if the petitioner qualifies as an advocate – which he expects to do so in December, 2019 – he would become eligible to apply for a chamber.

6. It is apparent from the plain reading of the Proviso to Rule 5(b) of the aforementioned Rules that the same is wholly inapplicable to the petitioner. The same expressly provides that allotment may be made if the father/mother/son/daughter or husband/or wife of the deceased allottee is ‘*otherwise eligible under Rule 3*’. Concededly, the petitioner is not eligible under the said Rules for securing any such allotment since he is not a practicing advocate.

7. Mr Sibal further states that the rules are not in conformity with the Delhi High Court Lawyer’s Chamber (Allotment and Occupancy) Rules, 1980 (hereafter ‘the said Rules’), which are applicable for allotment of chambers of at the Delhi High Court. He states that in this view, the petitioner is entitled to challenge the District Courts Karkardooma Lawyer Chamber (Allotment and Occupancy) Rules, 1995 and seeks that the same be brought in conformity with the said Rules. He has drawn the attention of this Court to Rule 5(a)(ii) of the said Rules, which is set out below:-

“(ii) Where a member of the Bar had applied for allotment of a chamber in his/her name and he/she dies or retires from practice due to any incapacity or is appointed a Judge before maturity of his/her application and/or turn, the name of his/her spouse/son/daughter may be permitted to be substituted in his/her place with due

seniority and priority, provided that the spouse/son/daughter is in practice as per these Rules.

Provided that in every case under Rule 5A(i) and (ii) the spouse/son/daughter who is in practice as per these rules must have made an application to the said effect within six months of the eventuality, viz., death, retirement, elevation/appointment as Judge, as the case may be.”

8. The contention that the Proviso to Rule 5(a)(ii) of the said Rules entitles a person not practising as an advocate to apply for the chamber, is unmerited. The language of the proviso is clear that only an advocate who is in practise as per the Rules can make an application and the same should be made within six months of the death/retirement/elevation, as the case may be. A person who is not an advocate cannot make an application in anticipation of his joining professional practice at a later date.
9. The petition is unmerited and is, accordingly, dismissed. The pending application is also dismissed.

VIBHU BAKHRU, J

JULY 31, 2019
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