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

Date of decision: 10th October, 2019

+ LPA 500/2019 and CM No. 34901/2019

CENTER OF APPLIED POLITICS Appellant

Through: Mr. Kirti Uppal, Sr. Adv. with
Mr. Vishal Singh, Mr. Rohan Jaitley,
Mr. Sidharth Chopra and Ms. Bhagya Yadav,
Advs.

versus

GOVT OF INDIA & ANR Respondents

Through: Mr. Ravi Prakash, CGSC with
Mr. Farman Ali, Mr. Aditya Ajay, Advs. and
Mr. Vijay Kumar, ASO-L&DO

CORAM:

HON'BLE THE CHIEF JUSTICE

HON'BLE MR. JUSTICE C.HARI SHANKAR

ORDER

10.10.2019

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D.N. PATEL, CHIEF JUSTICE (ORAL)

LPA 500/2019

1. This Letters Patent Appeal has been preferred by the original petitioner whose W.P.(C) 5513/2017 has been dismissed by the learned Single Judge vide judgment and order dated 30th July, 2019 (Annexure A-4 to the memo of this LPA). Hence the original petitioner has preferred the present Letters Patent Appeal. The main contention of the original petitioner was regarding the challenge of the order dated 23rd June, 2017 (page 85 to the memo of this LPA). This order was not quashed by the learned Single Judge. Moreover, the challenge to the order dated 12th

June, 2017 (page 81) was also not quashed and set aside by the learned Single Judge and hence the present letters patent appeal has been preferred by the original petitioner.

2. Having heard counsel for both the sides and looking to the facts and circumstances of the case, it appears that the plot in question which is situated at Indraprastha Estate, New Delhi was given on permanent lease on 21st April, 1971 on several conditions. (The said lease deed is at page 270.) The said lease conditions have been violated by the lessee, as per lessor and hence it is alleged that several notices were given in past but no adjudication of the show cause notice has ever taken place.

3. It further appears from the facts of the case that a Show Cause Notice was given on 24th March, 2017, as alleged by the respondents. It is contended by this appellant (original petitioner) that the said show cause notice was never received by the petitioner.

4. It further appears from the facts of the case that on 12th June, 2017 an order was passed by the respondents, on the basis of the earlier Show Cause Notice. The premises was ordered to be vacated and hence the appellants preferred a writ petition in which the learned Single Judge was pleased to pass an order dated 27th September, 2018 and it was directed by the learned Single Judge that without prejudice to the rights of either party, this appellant (original petitioner) was permitted to file a reply to the show cause notice dated 24th March, 2017.

5. The reply was filed by this appellant (original petitioner) without prejudice to the rights of either party. But, the said Show Cause Notice dated 24th March, 2017, had not been adjudicated at all by the respondents despite the reply being filed by this appellant (original

petitioner. The reply of this petitioner is dated 10th October, 2018 (page 425 of this LPA.)

6. Much has been argued by counsel for the respondent about the *locus standi* of this appellant to file a writ petition and it is alleged by the respondent that there is no resolution by the original petitioner society to file a litigation. Be that as it may, in pursuance of the order dated 27th September, 2018 passed by the learned Single Judge in the writ petition, the present appellant (original petitioner) has placed on record a resolution of the this petitioner - society dated 5th October, 2018. The said resolution is also disputed by the respondents.

7. Thus, it appears that as per order dated 27th September, 2018, passed by the learned Single Judge in the writ petition being W.P.(C) 5513/2017 after filing a reply by this appellant (original petitioner), the show cause notice dated 24th March, 2017 has not been decided at all. The respondent is relying upon an order dated 12th June, 2017 which was passed in pursuance of the earlier show cause notice.

8. Moreover it appears from the order dated 30th July, 2019 passed by the learned Single Judge in W.P.(C) 5513/2017 especially paragraph numbers 9, 10, 11, 12, 13 and 14 that show cause notice dated 24th March, 2017 has not been adjudicated by the competent respondent authority. Looking to the impugned order dated 30th July, 2019 in W.P.(C) 5513/2017, it appears that show cause notice dated 24th March, 2017 has been adjudicated by this court which is an error apparent on the face of the record and hence the judgment and order dated 30th July, 2019 passed by the learned Single Judge in W.P.(C) 5513/2017 deserves to be quashed and set aside.

9. The show cause notice dated 24th March, 2017 should have been decided by the respondent, after receiving the reply from this appellant (original petitioner). This exercise is yet to be completed. In this eventuality, we are not inclined to go into the details of the merit or the demerit of the case of this appellant (original petitioner). But suffice it to say that the order passed by the learned Single Judge deserves to be quashed and set aside and we hereby remand the matter to the Respondent Nos. 1 and 2 to adjudicate the show cause notice dated 24th March, 2017 in the light of the reply filed by this appellant (original petitioner) dated 10th October, 2018. Adequate opportunity of being heard will also be given by the respondents to this appellant.

10. The show cause notice dated 24th March, 2017 will be decided on its own merits in accordance with law, rules, regulations and Government policy applicable to the facts of the present case and also on the basis of the evidences on record and without being prejudiced by the observations made by the learned Single Judge in order dated 30th July, 2019 in W.P.(C) 5513/2017 and without being prejudiced by the order passed by this Court in this appeal. The contentions to be raised by both the parties are to be kept open including on the point of legality or otherwise of the construction, the legality of the electricity connection, the purpose for grant of the lease whether is achieved by the petitioner, and on such other grounds for which the respondent is seeking premises to be vacated and on any other ground on which the respondent is seeking termination of the lease. If need arises, the respondent is also permitted to give a detailed show cause notice and the liberty is also reserved with this petitioner to file a reply in accordance with law of the said show cause notice including the aspect of *locus standi* of the petitioner.

11. We hereby quash and set aside the order dated 30th July, 2019 passed by the learned Single Judge in W.P.(C) 5513/2017 and the matter is remanded as stated hereinabove.

12. This LPA is allowed and disposed of.

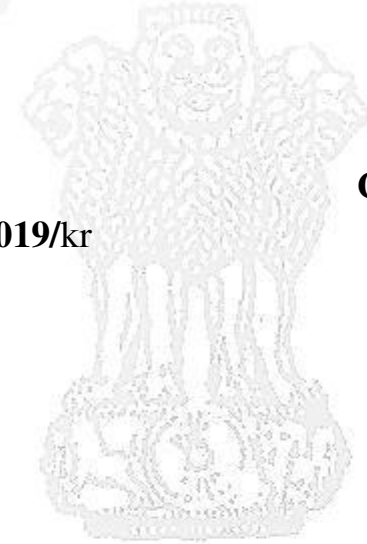
C.M.No.34901/2019

1. In view of the disposal of the appeal, this application also stands disposed of.

CHIEF JUSTICE

C.HARI SHANKAR, J.

OCTOBER 10, 2019/kr



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