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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **CONT.CAS(C) 454/2017 and C.M. Appl. Nos. 12314/2018,
22970/2018, 1778/2019, 21078/2019**

DEEP MALHOTRA & ANR. Appellant
Through Mr. R. K. Saini, Advocate

versus

U P SINGH & ORS. Respondent
Through Mr. Dhanesh Relan, Standing
Counsel for DDA.

CORAM:
HON'BLE MS. JUSTICE SANGITA DHINGRA SEHGAL

ORDER
% **03.05.2019**

CONT. CAS. (C) No. 454/2017 & CM . No. 21078/2019(Directions)

1. The present contempt petition has been filed by the petitioner for non-compliance of the order dated 09.12.2016 which was later modified vide order dated 29.03.2017 passed in W.P. (C) 11647/2016 whereby the Writ petition was disposed with the direction to Commissioner (LD), DDA to treat the Writ petition as a representation and pass a speaking order within 12 weeks.
2. Learned counsel for the petitioner contended that the period of 12 weeks granted by this court had come to an end on 09.06.2017 despite which the contemnor/DDA had failed to dispose of the

representation. Learned counsel for the petitioner now preferred a CM No. 21078/19 for stay of order dated 24.04.2019 passed by Commissioner (LD), DDA. Arguing the present application for stay of order dated 24.04.2019, learned counsel for the petitioner contended that since no reply to the contempt petition was filed by DDA, Commissioner (LD), DDA was summoned on 25.04.2019, who despite being the author of the decision dated 24.04.2019 failed to inform the Court that the representation of the petitioner stands decided on 24.04.2019. It is further contended that in fact after appearing in Court on 25.04.2019 the order dated 24.04.2019 was prepared, which is anti-dated and anti-timed and the same was forwarded to the petitioner to wriggle out of the contempt petition committed by the Respondent.

3. On the other hand, learned counsel for the Respondent/DDA in his defence argued that Sh. R.K.Saini, Advocate was not present when the Court proceedings on 25.04.2019 were recorded. In fact Mr. Arvind Sharma, Advocate appeared on behalf of the petitioner along with Mr. Subu R., Commissioner (LD) DDA and the Court was informed on 25.04.2019 that the representation of the petitioner had been decided on which they were directed to file an affidavit within one week. The following order was passed on 25.04.2019:-

“4. Learned counsel for the respondent submits that in fact in this case the lease in question was determined way back in the year 1988 on account of misuse of the property by the petitioner. An eviction

order was also passed, which is the subject matter of challenge under Section 9 before the Court of District Judge and the matter is still pending. An interim order against the eviction has been granted in those proceedings in favour of the petitioner. He submits that on account of the fact that the lease stands determined. DDA is not in a position to process the case for restoration of the lease. He submits that the misuse still continues.

5. Let an affidavit to this effect be filed in this Court a period of one week from today with advance copy counsel for the petitioner, who may file his response to the same within one week thereafter. The concerned officer is directed to remain present on the next date of hearing.”

4. I have heard learned counsel for the parties and have perused the relevant material on record.
5. In compliance of order dated 09.02.2016 and 29.03.2017, DDA has passed a speaking order dated 24.04.2019, relevant portion of which reads as under:

“From the above, it is clear that the petitioner has concealed the facts and is using the premises as a hotel with 20 room, conference hall, banquet hall and serving foods to its guests whereas he has claimed the premises as a guest house. Thus, continues with misuse till date. Whereas, as per the

provisions of MPD-2021, only guest house is a permissible activity in residential use. Hence, the circular/policy F1 (1)2014-Coordn (LD)DDA/191 dt. 04.08.2015 (photocopy enclosed) prevails in this case which clearly states that as per approval of the Authority vide resolution No. 85/2015 dt. 16.06.2015, "Removal of misuse may not be insisted upon before allowing conversion, as per Govt. of India Policy for conversion. However, in cases where the allotment has been cancelled or lease has been determined on a/c of the breaches of terms & conditions of lease deed, in such cases, before restoration of lease, removal of breaches of terms & conditions of lease deed, should be ensured. "As per this policy, it is necessary that the applicant should remove the misuse prior to grant to restoration which the current applicant has not done. Further, the misuse i.e. operating of a hotel is not permissible as per Master Plan on a residential plot. Whereas, the applicant continues to run the hotel. Therefore, this case is not fit for restoration of lease."

6. From the perusal of the record as well as office notings of the Original file of the DDA pertaining to the case of the petitioner, it is clear that the representation has been disposed of with a speaking order on 24.04.2019 and the contempt petition has become infructuous.

7. However, it cannot be ignored that vide order dated 29.03.2017, it was directed that the representation was to be decided with a speaking order within 12 weeks by the DDA/Respondent, however, the DDA/Respondent has taken more than 2 years to decide the same. To meet the ends of justice, costs of Rs. 20,000/- is imposed on the DDA/Respondent to be paid to the petitioner within 2 weeks from today.
8. Accordingly, the present contempt petition and application bearing CM No. 21078/2019 is disposed of.
9. The petitioner is at liberty to take appropriate remedy against the order dated 24.04.2019 passed by the Commissioner (LD), DDA.

C.M. Appl. Nos. 12314/2018, 22970/2018, 1778/2019.

In view of the decision passed in the main contempt petition, the present applications have become infructuous.

Applications stands disposed of.

SANGITA DHINGRA SEHGAL, J

MAY 03, 2019

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