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

+ LPA 629/2018

LT. COLONEL VINEET MEHTA Appellant
Through: Mr. Rakesh Khanna, Sr. Adv.
with Mr. Mohan Kumar, Adv.

versus

THE ESTATE OFFICER & ORS Respondents
Through: Mr. Vikram Jetley, CGSC.

CORAM:
HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE V. KAMESWAR RAO

ORDER
% **15.02.2019**

CM No. 7275/2019 (for early hearing)

This is an application filed by the applicant / appellant seeking early hearing of the appeal. For the reasons stated in the application, hearing of the appeal is expedited.

Application stands disposed of.

LPA 629/2018

This appeal has been filed by the appellant challenging the order of the learned Single Judge dated 5th September, 2018 in W.P.(C) 3573/2017. The only submission made by Mr. Rakesh Khanna, learned Sr. Counsel appearing for the appellant is that appellant is not averse to going before the

District Judge against the order Under Section 7 of PP Act, 1971 of the Estate Officer, but the finding that the petitioner was in unauthorized occupation must not be treated as final as the said issue would have a bearing on the date from which the penal rent is payable.

Mr. Vikram Jetley, learned counsel appearing for the respondents has drawn our attention to the order of the Coordinate Bench dated May 11, 2018 to state that the said issue has been left open. He also drawn our attention to page 59 of the paper book wherein the learned Single Judge has noted the scope of enquiry in the Appeal before the District Judge against the order of passed under Section 7 by the Estate Officer. We reproduce the relevant part of the order dated May 11, 2018 passed by the Division Bench of this court and impugned order passed by the learned Single Judge at Pages 257 and 59 of the paper book as under:

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Division Bench

From which date, the appellant should be treated to be an unauthorized occupant and what should be the penal rent/damages leviable is however a subject, in given facts and circumstances, we consider, should be left open to be considered by the concerned Court, in the event, the appellant challenges the order dated 16.04.2018 passed by the Estate Officer under Section 7(3) of the Act.”

Single Judge

“The Division Bench is also found to have limited the scope of enquiry in the appeal before the District Judge against the order under Section 7 of the Estate Officer, only to, the date from which the possession of the petitioner became unauthorised and the correctness/validity of the rate at which the respondent Estate Officer has determined the damages.”

Mr. Khanna states that in view of the submission made by Mr. Jetly by taking the statement on record, the appeal be disposed of.

Ordered accordingly.

The next date of hearing, i.e., 27th February, 2019 stands cancelled.

CM. Nos. 47065/2018 and 47068/2018

Dismissed as infructuous.

CHIEF JUSTICE

V. KAMESWAR RAO, J

FEBRUARY 15, 2019/jg