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

Date of Decision: 25.07.2019

+ **CONT.CAS(C) 828/2017**

DINESH KUMAR

..... Petitioner

Through: Mr. Vivek Sharma & Mr. Anshul
Garg, Advs.

versus

GHANSHYAM DASS

..... Respondent

Through: Mr. K.C. Mittal, Ms. Ruchika Mittal,
Ms. Pushti Gupta & Mr. Amit P. Shahi, Advs.

CORAM:

HON'BLE THE CHIEF JUSTICE

HON'BLE MR. JUSTICE C.HARI SHANKAR

D.N. PATEL, CHIEF JUSTICE (ORAL)

CM APPL.32490/2018 (condonation of delay in filing the reply)

For the reasons stated in the application, the delay of 12 days in filing the reply is condoned.

Application stands disposed of.

CONT.CAS(C) 828/2017

1. This contempt petition has been preferred for the alleged breach of an order dated 26.04.2017 passed by this Court in W.P.(C) 1085/2017.
2. We have heard the counsel for petitioner as well as the counsel for respondent. It appears from the facts of the case that W.P.(C) 1085/2017 was instituted by the petitioner with an allegation that the plans, which were sanctioned by the concerned authority, were not in accordance with law and

the nature of construction is illegal.

3. We have disposed of the said W.P.(C) 1085/2017 *vide* our order dated 25.07.2019. It further appears from the facts of the case that during the pendency of W.P.(C) 1085/2017, an order was passed on 26.04.2017. Para 4 thereof, reads as under:

“4. A photocopy of the counter affidavit of the respondent nos. 1 to 5 has been handed over to us in court by Mr. Sudhir Nandrajog, Senior Counsel for the petitioner. Our attention is drawn to the averments contained in paras 5 to 7 thereof wherein the East Delhi Municipal Corporation has taken a view that the respondent no.6 has made misrepresentation by seeking sanction of the building plan and has effected unauthorized construction on the open space reserved for the public facilities in the layout plan.

In view thereof, it is directed that the respondent no.6 shall maintain status quo with regard to the title, possession and construction on the subject land till the next date of hearing.”

4. We have also perused the counter affidavit filed in this contempt petition and it appears that there are total 16 residential units at the premises in question, out of which one premises was given on rent for which this contempt petition has been preferred.

5. It appears from the facts of the case and from the allegations levelled by the respondent that the rented premises was given to one lady prior to the order dated 26.04.2017 passed by this Court and the period of tenancy was extended from 18.07.2017 to 17.07.2019. It is also submitted by the counsel for respondent that now the said tenant has also vacated the premises and there is no intention of the respondent to give the premises on rent to anybody.

6. Counsel appearing for the respondent further submitted that there is no deliberate breach of an order passed by this Court by the respondent. Even otherwise, only one premises was given on rent and that too prior to order dated 26.04.2017 passed by this Court. Since the said tenant has already vacated the premises, now the status quo would be maintained as per the order of this Court in all the premises.

7. Having heard counsels on both the sides and looking to the facts of the case, it appears that there is no wilful disobedience by the respondent of the order dated 26.04.2017 passed by this Court in W.P.(C) 1085/2017. Moreover, it appears that initially the plans were sanctioned by the concerned authorities, thereafter plans were cancelled. The owner has approached this Court against the cancellation of the sanctioned plan and now the matter is pending before East Delhi Municipal Corporation. As and when the final order would be passed, the same shall be binding on all the parties.

8. With the aforesaid observation, this contempt petition is hereby disposed of.

CM APPL.32059/2018

9. In view of the order passed in CONT. CAS (C) 828/2017, this application stands disposed of.

CHIEF JUSTICE

C.HARI SHANKAR, J

JULY 25, 2019

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