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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
Date of decision: 23rd March, 2021
+ **W.P.(C) 3806/2021 & CM APPLs. 11477-78/2021**
PRAVEEN KUMAR & ORS. Petitioners
Through: Mr. Harish Malhotra, Sr. Advocate.
versus

GOVT. OF NCT OF DELHI & ORS. Respondents
Through: Ms. Sangita Rai, Advocate for R-1.
Mr. Parvinder Chauhan, Standing
Counsel with Mr. Nitin Jain,
Advocate for DUSIB

CORAM:
JUSTICE PRATHIBA M. SINGH

Prathiba M. Singh, J.(Oral)

1. The Petitioners in the present case have approached this Court on the ground that they are occupants of shops at the Ground Floor of property bearing No.830, Ward No.VII, Katra Hindu, Farash Khana, Delhi - 110006 (*hereinafter, 'suit premises'*).
2. The case of the Petitioners is that they are occupants who are paying license fee to the Corporation. They have now been served notice dated 17th March, 2021 issued by the Deputy Director (Property), Delhi Urban Shelter Improvement board (*hereinafter, 'DUSIB'*), asking them to vacate the shop within a period of seven days. The case of the Petitioners is that under Sections 41 and 42 of the DUSIB Act, 2010, a show cause notice ought to mandatorily be issued to any occupant and after affording a hearing, orders can be passed. However, in the present case, though the impugned order mentions that it is a notice under Sections 41 and 42, it is not a notice to show cause but an order directing the Petitioners to vacate the suit premises.

3. Ld. counsel for DUSIB draws the attention of this Court to the impugned order according to which the suit premises were sealed on 17th November, 2009 in terms of the approval granted by the Additional Commissioner (Slums and Jhuggi Jhopdi) on 16th October, 2009. According to DUSIB, one Mr. Bhupinder Singh was the occupant of the Ground Floor and First Floor and they are not aware of any rights which the Petitioners have in respect of the shops on the Ground Floor of the suit premises. It is submitted that the suit premises were sealed and these Petitioners have unauthorisedly broken open the seal and occupied the shops. It is further submitted that the Delhi Technical University has given a report that the premises are in such a bad condition that occupation of the same can be a danger to human life. It is submitted that since the initial entry of the Petitioners into the suit premises was after the breaking open of the seal, no notice is liable to be issued.

4. On the other hand, Mr. Malhotra, Id. Senior Counsel relies upon various electricity bills and license fee challans to show that the Petitioners have always been in occupation of the suit premises.

5. Considering the overall facts and the scheme of the DUSIB Act, 2010, which requires notice to be issued, it is directed that the impugned order shall be treated as a show cause notice under Section 41. The Petitioners are permitted to put in their responses within a period of two weeks. The Petitioners shall be afforded a hearing on 26th April, 2021 at 11.30 am, before the appropriate authority. After hearing the Petitioners, a proper order shall be passed under Sections 41 and 42 of the DUSIB Act, 2010. Until the passing of the order, the impugned order directing the Petitioners to vacate

the aforesaid shops, shall not be given effect to. Once the order is passed, 15 days' time, in terms of Section 42, shall be given to the Petitioners.

6. The Petitioners, who have filed the present petition, shall ensure that they do not create any third party interest in respect of the property and shall maintain *status quo* as on today.

7. It is clarified by Mr. Malhotra, Id. Senior Counsel, that the Petitioners do not claim any rights in the first, second or third floor of the property.

8. The writ petition is accordingly disposed of in the above terms. All pending applications are also disposed of.

MARCH 23, 2021

Rahul/C

**PRATHIBA M. SINGH
JUDGE**