

\$~34

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

+ **W.P.(C) 4660/2021, CM APPL. 14321/2021, CM APPL. 29724/2022**

KESRI SINGH CHOUDHARY & ANR. Petitioners

Through: **Mr. Akash Nagar and Mr.Samarpit Chauhan, Advs. for P-1.**

versus

AUTHORITY UNDER THE DELHI SHOPS AND ESTABLISHMENT ACT, 1954 & ANR. Respondents

Through: **Mr. Anubhav Gupta, Adv. GNCTD
Mr. Avtar Singh and Ms.Manjeet Kaur, Advs. for R-2.**

%

Date of Decision: 17th October, 2022

CORAM:

HON'BLE MR. JUSTICE DINESH KUMAR SHARMA

J U D G M E N T

DINESH KUMAR SHARMA, J. (Oral)

1. The present writ petition has been filed challenging the order dated 20th November, 2019 whereby the Authority under Delhi Shops & Establishment Act, 1954 (the DS & E Act) disposed of the claim application filed by Sh. Pandit Prem Bareillivi -respondent No.2 herein.
2. Vide the impugned order, the petitioner management has directed to make payment of Rs.7,84,139/- as due earned wages for the period

from 26th June, 2017 to 16th October, 2018 to the claimant- Sh.Pandit Prem Bareillivi-respondent No.2.

3. Learned counsel for the petitioner submits that in fact, the petitioner was never duly served and the competent authority proceeded *ex parte* and the authority allowed the claim petition without taking into account the reply filed by the petitioner.
4. Learned counsel for the respondent submits that the authority passed the order as petitioner failed to appear. It has been submitted that the reply was filed after passing of the impugned order.
5. Learned counsel for the petitioner submits that without touching upon the merits of the case, he may be given an opportunity to file his reply before the authority and the authority may be directed to decide the claim petition after taking into account his reply in accordance with law.
6. Thus, without going into the merits of the case, the impugned order is set aside subject to the condition that the petitioner shall deposit a sum of Rs. 5,00,000/- with the Registrar General of this Court within eight weeks.
7. The Registrar General shall keep this amount in interest bearing FDR.
8. The matter is remanded back to the authority. The petitioner shall file its reply and documents, if any, before the authority within eight weeks and thereafter, the authority shall decide the matter in accordance with law.

9. The authority is also directed to dispose of the claim petition preferably within six months. However, merits of the case is not being considered and nothing expressed herein shall tantamount to be an expression on the merits of the case. There shall not be coercive action against the petitioner, if the amount of Rs.5,00,000/- is deposited with the Registrar General of this Court within eight weeks. In case, the petitioner fails to deposit the same, the respondent shall be entitled to recover the entire amount in accordance with law.

10. With these observations, the present petition stands disposed of.

DINESH KUMAR SHARMA, J

OCTOBER 17, 2022

Pallavi

न्यायमेव जयते