

\$~24 to 29

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

% *Decided on: 14th March, 2023*

+ W.P.(C) 3065/2023 & CM APPLs. 11861/2023 & 11862/2023
SIMI NANDA Petitioner

Through: Mr. Chinmoy Pradip Sharma,
Senior Advocate with
Mr. Vineet Nagar, Mr. Irfan
Hasieb, Mr. Krishnajyoti Deka
and Mr. Rishabh Munjal,
Advocates.

versus

DELHI DEVELOPMENT AUTHORITY &
ANR. Respondents

Through: Ms. Manika Tripathy, Standing
counsel with Ms. Ashutosh
Kaushik, Advocate for
respondent/DDA.
(M): 9811831835
Mr. S.A. Haseeb, Advocate for
respondent n. 2/UOI.

25

+ W.P.(C) 3078/2023 & CM APPLs. 11997/2023 & 11998/2023
PRECIOUS HOSPITALITY AND LEISURE PVT
LTD Petitioner

Through: Mr. Chinmoy Pradip Sharma,
Senior Advocate with
Mr. Vineet Nagar, Mr. Irfan
Hasieb, Mr. Krishnajyoti Deka
and Mr. Rishabh Munjal,
Advocates.

versus

DELHI DEVELOPMENT AUTHORITY &
ANR. Respondents

Through: Ms. Manika Tripathy, Standing

counsel with Ms. Ashutosh
Kaushik, Advocate for
respondent/DDA.
(M): 9811831835
Mr. Jatin Singh, Standing
Counsel for respondent no.
2/DOI.
(M): 9810102233

26

+ W.P.(C) 3079/2023 & CM APPLs. 11999/2023 & 12000/2023
JMD HOTELS PRIVATE LIMITED Petitioner

Through: Mr. Chinmoy Pradip Sharma,
Senior Advocate with
Mr. Vineet Nagar, Mr. Irfan
Hasieb, Mr. Krishnajyoti Deka
and Mr. Rishabh Munjal,
Advocates.

versus

DELHI DEVELOPMENT AUTHORITY &
ANR. Respondents

Through: Ms. Manika Tripathy, Standing
counsel with Ms. Ashutosh
Kaushik, Advocate for
respondent/DDA.
(M): 9811831835
Mr. Farman Ali, Special panel
counsel with Ms. Ushal Jomnal
and Mr. Krishan Kumar,
Advocates for respondent no.
2/DOI.
Email: 11farman11@gmail.com

27

+ W.P.(C) 3080/2023 & CM APPLs. 12002/2023 & 12003/2023
PLUM SALONS PRIVATE LIMITED Petitioner

Through: Mr. Chinmoy Pradip Sharma,

Senior Advocate with
Mr. Vineet Nagar, Mr. Irfan
Hasieb, Mr. Krishnajyoti Deka
and Mr. Rishabh Munjal,
Advocates.

versus
DELHI DEVELOPMENT AUTHORITY &
ANR.

..... Respondents

Through: Ms. Manika Tripathy, Standing
counsel with Ms. Ashutosh
Kaushik, Advocate for
respondent/DDA.
(M): 9811831835
Mr. Mukul Singh, CGSC with
Ms. Ira Singh, Advocate for
respondent no. 2/Union of
India.

28

+

W.P.(C) 3081/2023 & CM APPLs. 12010/2023 & 12011/2023
M/S LIFE CARE CENTRE

..... Petitioner

Through: Mr. Chinmoy Pradip Sharma,
Senior Advocate with
Mr. Vineet Nagar, Mr. Irfan
Hasieb, Mr. Krishnajyoti Deka
and Mr. Rishabh Munjal,
Advocates.

versus
DELHI DEVELOPMENT AUTHORITY &
ANR.

..... Respondents

Through: Ms. Manika Tripathy, Standing
counsel with Ms. Ashutosh
Kaushik, Advocate for
respondent/DDA.
(M): 9811831835

29

+ W.P.(C) 3093/2023 & CM APPLs. 12066/2023 & 12067/2023
AMIT GOEL (PROPRIETOR GLAMOUR FASHION AND
PERSONAL CARE) Petitioner

Through: Mr. Chinmoy Pradip Sharma,
Senior Advocate with
Mr. Vineet Nagar, Mr. Irfan
Hasieb, Mr. Krishnajyoti Deka
and Mr. Rishabh Munjal,
Advocates.

versus

DELHI DEVELOPMENT AUTHORITY &
ANR. Respondents

Through: Ms. Manika Tripathy, Standing
counsel with Ms. Ashutosh
Kaushik, Advocate for
respondent/DDA.
(M): 9811831835
Mr. Ajay Jain, Senior panel
counsel with Ms. Shivali
Sharma and Mr. Keshav Ahuja,
Advocates for respondent no. 2.

CORAM:

HON'BLE MS. JUSTICE MINI PUSHKARNA

[Physical Hearing/ Hybrid Hearing]

MINI PUSHKARNA, J. (ORAL):

1. The present writ petitions have been filed on behalf of the petitioners to quash the show cause notices dated 08.02.2023 issued by the Delhi Development Authority (DDA) asking the petitioners to show cause as to why they should not be evicted from the units occupied by the petitioners in Janak Place District Centre, Janakpuri, New Delhi-110058. The notices have been issued by DDA under

Section 4 of the Public Premises (Eviction of Unauthorized Occupants) Act, 1971 (PP Act). There is further prayer for directions to the respondent no. 2 to frame policy/ guidelines for the units in question, in terms of the orders as passed by this Court dated 05.08.2016 in W.P. (C) No. 2280/2016, ***titled as Ganga Jamuna Saraswati Vs Union of India & Ors.***

2. It is the case of the petitioners that they were allotted different commercial units in Janak Place Market, Janakpuri District Centre on different dates. As per the case of the DDA, the said licences were not renewed approximately after 2014, though as per learned senior counsel appearing for the petitioners, the DDA has been accepting the payment towards licence fees even after the year 2014.

3. Learned senior counsel for the petitioners has handed over a chart showing the various payments made by the petitioners to the DDA post 2014, the details of which are as follows:

W.P.(C) 3065/2023	SIMI NANDA VS DDA	Rs. 36,37,620/- as license fees to R1 @Ground N, Pdf Pg 36
W.P.(C) 3078/2023	PRECIOUS HOSPITALITY AND LEISURE PVT LTD VS DDA	Rs. 75,00,000/- as license fees to R1 @Ground P, Pdf Pg 38
W.P.(C) 3079/2023	JMD HOTES PVT LTD VS DDA	Rs. 1,80,00,000/- as license fees to R1

		@Ground P, Pdf Pg 38
W.P.(C) 3080/2023	PLUM SALONS PVT. LTD. (FORMERLY KNOWN AS M/S AMBIKA PILLAI SALONS PVT. LTD.) V. DDA AND ANR.	Rs. 1,83,00,000/- has been paid by Petitioner to R1 after the alleged date of expiration of license fee. @Ground P, Pdf Pg 40
W.P.(C) 3081/2023	M/S LIFE CARE CENTRE VS DDA	Rs. 62,00,000/- as license fees to R1 @Ground P, Pdf Pg 38
W.P.(C) 3093/2023	AMIT GOEL VS DDA	36,37,620/- as license fees to R1 @Ground N, Pdf Pg 37

4. It is further submitted by learned senior counsel for the petitioners that the proposal is pending with the Ministry of Urban Development (MOUD), Government of India where the DDA had earlier mooted a proposal for transfer of shops to the various occupants at fair market value. Thus, it is submitted that the present show cause notices under Section 4 of the PP Act ought to be quashed, as the same are not maintainable pending the proposal with the MOUD.

5. Learned senior counsel for the petitioners further relies upon the order dated 02.06.2022 passed by a Coordinate Bench of this Court in W.P. (C) No. 9033/2022 and other connected matters. By way of the said order, other similarly placed unit holders in the Janakpuri District Centre were granted interim protection, wherein this Court has directed that the said unit holders shall not be dispossessed from their units till the next date of hearing.

6. Thus, it is contended that the present petitioners are entitled to similar treatment and similar protection. It is further submitted that show cause notices under Section 4 of the PP Act have been issued to the petitioners in order to circumvent the protection as granted by this Court to other similarly placed occupants vide order dated 02.06.2022.

7. On the other hand, learned standing counsel appearing for DDA on advance notice submits that the present writ petitions would not be maintainable, as the same have been filed against the show cause notices. She further submits that no eviction order as yet has been passed against the petitioners. She submits that the petitioners have not been paying the licence fees regularly. Thus, in view thereof, after approximately 2014, the licences of the various unit holders were not renewed. She further submits that the payments by the petitioners were erratic and that they were not regular in payment of the license fees.

8. It is the contention on behalf of the DDA that unilateral payments made by the petitioners without any demand from DDA, would not have the effect of extension of the licence of the petitioners.

9. Learned counsels appearing for Union of India submit that as

per their last instructions in the other connected batch matters filed by similarly placed occupants, the proposal of the DDA for transfer of the units in question at fair market value to the present occupants, is under consideration with the MOUD and that MOUD is in touch with the DDA on this aspect.

10. I have heard learned counsels for the parties and also perused the record.

11. The present writ petitions have been filed challenging the show cause notices as issued by the DDA under Section 4 of the PP Act. Thus, the present writ petitions are not maintainable as the same have been filed against the show cause notices.

12. Mere issuance of show cause notices to the respective occupants will not entitle such occupants to challenge the same. Such occupants are required to file reply to the respective show cause notices issued to them. Further, for any proceedings under the PP Act, this Court does not have jurisdiction to entertain any such petitions challenging the proceedings under the PP Act. Section 15 of the PP Act bars the jurisdiction of a Civil Court in respect of proceedings under the said Act.

13. Thus, it is deemed expedient that the petitioners are directed to file reply to the notices as issued by the DDA.

14. At this stage, learned senior counsel appearing for the petitioners submits that the proceedings before the Estate Officer are an empty formality and that various other persons whose cases are pending before the Estate Officer are not granted proper hearing.

15. In order to allay the said concerns on behalf of the petitioners, it

is directed that the Estate Officer shall give full opportunity to the petitioners herein to appear before the Estate Officer and make their submissions. Ample opportunity shall be granted to the petitioners herein to submit their defence before the Estate Officer and also make their oral as well as written submissions before the Estate Officer.

16. Upon the petitioners filing their replies to the show cause notices under Section 4 of the PP Act, the DDA shall consider the said replies and consider the various defences as may be raised on behalf of the petitioners.

17. Learned standing counsel for the DDA submits that ample opportunities may not be taken as a free hand by the petitioners to take undue adjournments before the Estate Officer. In view thereof, it is made clear that all the parties will endeavour to appear regularly before the learned Estate Officer and not take undue adjournments.

18. With the aforesaid directions, the present writ petitions are disposed of.

19. All pending applications shall stand disposed of accordingly.

20. *Dasti* under signatures of the Court Master.

न्यायमेव जयते

MINI PUSHKARNA, J

MARCH 14th, 2023

c