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

Date of decision: 30th October, 2023

+ W.P.(C) 3331/2023

SANGITA RAI

..... Petitioner

Through: Ms. Tamali Wad, Ms. Sangita Rai and
Mr. Akash Srivastava, Advocates.

versus

NEW DELHI BAR ASSOCIATION AND ORS. Respondents

Through: Mr. Govind Singh, Advocate for R-1
and 2.

CORAM:

HON'BLE MR. JUSTICE SUBRAMONIUM PRASAD

JUDGMENT (ORAL)

1. The Petitioner, who is a practising Advocate, has approached this Court for a direction to the Respondents to hand over the possession of Chamber No. 279A, Patiala House Courts (*hereinafter referred to as the Chamber in question*) to the Petitioner and allow her to use the same without any hindrance and difficulty. The Petitioner also prays for a direction to the New Delhi Bar Association and/or Bar Council of Delhi to take appropriate action against the Advocates who have thrown all her files out of the Chamber in question.

2. It is stated that the Petitioner got enrolled as an Advocate with the Bar Council in the year 2000 and she is a member of New Delhi Bar Association. It is stated that the Chamber in question was allotted to Asgar



Ali/Respondent No.5 herein. It is stated that Mr. Asgar Ali approached the Petitioner and offered her the Chamber in question on rent. It is stated that the Petitioner started operating from the Chamber in question on monthly rent. It is stated that between 2013 to 2019, the Petitioner was empanelled as a Panel Counsel for various Government bodies, including the Union of India and the GNCTD, and was operating from the Chamber in question. It is stated that on 04.02.2023 when the Petitioner returned from Tis Hazari Court she found that Asgar Ali along with ten other people were sitting in the Chamber in question by breaking open the lock and trespassing into the Chamber. It is stated that they started threatening and abusing the Petitioner and pressurized the Petitioner to remove her belongings and to vacate the Chamber in question. It is also stated that the President, the Secretary and the Treasurer of the New Delhi Bar Association also visited the Chamber in question and threatened the Petitioner to vacate the Chamber in question and locked the Chamber. It is stated that *vide* representation dated 25.02.2023 the Petitioner requested the President of the New Delhi Bar Association to remove the lock from the Chamber in question. It is stated that on 06.03.2023 the Petitioner was informed that all her files and documents have been thrown out of the Chamber in question. It is stated that the Petitioner called the Police and filed a complaint. Since no action was taken, the Petitioner approached this Court by filing the present Writ Petition.

3. Notice in the present Writ Petition was issued on 17.03.2023 and the District Judge in-charge of the Patiala House Court was directed to gain access to the Chamber in question and enable the Petitioner to remove all her belongings from the said Chamber and then lock the same. The learned District Judge in-charge filed a report stating that the belongings of the



Petitioner have been removed from the Chamber. On 23.05.2023 this Court directed that the keys of the Chamber in question be handed-over to Asgar Ali who undertook before the Court that the Chamber would be used by him personally along with his associates and the same shall not be given out for any monetary consideration to any individual whatsoever.

4. Learned Counsel for Respondent No.5 has raised a preliminary objection regarding maintainability of the present Writ Petition by stating that the Bar Association is not the instrumentality of the State under Article 12 of the Constitution of India and, therefore, the Writ Petition would not be maintainable.

5. Learned Counsel for the Petitioner places reliance on the judgment of the Kerala High Court in V. Abdul Azeez And Ors. vs The Alappuzha Bar Association And & Ors., **AIR 1993 Ker 201**, wherein the Kerala High Court was of the opinion that since the Bar Association does perform certain statutory duties it is amenable to the writ jurisdiction.

6. Admittedly, the Petitioner is not the allottee of the Chamber in question. The Petitioner has been put in permissive possession of the Chamber in question by the allottee of the Chamber. The Petitioner, therefore, cannot claim any right over the Chamber. In the absence of any right, the Writ Petition is not maintainable.

7. The allegation of the Petitioner is that Respondent No.5 herein along with his associates have trespassed the Chamber in question. The Chamber was allotted to Respondent No.5. Respondent No.5 has permitted the Petitioner to use the Chamber in question. The licensee of the Chamber has put another person to use the Chamber. The question as to whether the licensee has breached the terms of the licence or not is not germane in the



present case.

8. It is always open for the Petitioner to initiate action against the Respondent No.5 for criminal trespass in the Chamber in question by availing remedies as provided for under the Code of Criminal Procedure. This Court is not inclined to entertain the submission of the Petitioner for a direction to the authorities to initiate a criminal case against Respondent No.5. The Apex Court has, time and again, cautioned the High Courts for entertaining the Writ Petitions for registering FIRs or passing any such directions. [Refer to: Sakiri Vasu v. State of UP, (2008) 2 SCC 409 and Priyanka Srivastava & Anr. v. State of Uttar Pradesh & Ors., (2015) 6 SCC 287]

9. The Petitioner is also not inclined to convert this writ petition as a Public Interest Litigation for streamlining the allotment of chambers in Patiala House Courts or to pass guidelines or directions to ensure that there is no subletting in Patiala House Courts. It need not be stated that if subletting of Chambers is not permissible then it is for the District Judge to take action in the facts of each case.

10. In view of the above, the Writ Petition is dismissed, along with the pending applications, if any.

11. Needless to state that Respondent No.5 shall be bound by the undertaking given before this Court and the Order of this Court restraining him from subletting the Chamber in question to anyone.

SUBRAMONIUM PRASAD, J

OCTOBER 30, 2023/Rahul