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

% *Decided on: 26th April, 2023*

+ CM(M) 672/2023

PUSHPLATA SHARMA Petitioner

Through: Mr. Parikshit Mahipal,
Advocate (Ph.9868873986, e-
mail: pmahipal09@gmail.com)

versus

THE ESTATE OFFICER PUBLIC WORKS
DEPARTMENT

..... Respondent

Through: None.

CORAM:

HON'BLE MS. JUSTICE MINI PUSHKARNA

[Physical Hearing/ Hybrid Hearing]

MINI PUSHKARNA, J. (ORAL):

CM APPL. 20933/2023

1. The present is an application seeking exemption from filing certified copy, dim, hand written, illegible copies of certain orders.
2. Exemption allowed, subject to just exceptions.
3. Application stands disposed of accordingly.

CM APPL. 20934/2023

4. The present is an application seeking permission to file additional documents viz. medical documents, photographs and e-mails.
5. The said documents have already been filed along with the petition, the same are taken on record.
6. With the aforesaid direction, the application is disposed of.

CM(M) 672/2023 and CM APPL. 20935/2023

7. The present writ petition has been filed on behalf of the petitioner with prayer for setting aside the order dated 05.04.2023 passed by the Estate Officer and order dated 10.04.2023 passed by the learned District Judge (Headquarter) Tis Hazari Courts, Delhi. There is a further prayer for restoration of the possession of the premises to the petitioner during the pendency of the appeal before the learned District Judge (Headquarter) Tis Hazari Courts, Delhi.

8. It is submitted that the present petition has been filed impugning the Eviction Order dated 05.04.2023 passed by the Estate Officer, PWD and Order dated 10.04.2023 passed by the learned District Judge (Headquarter) Tis Hazari Courts, Delhi. It is submitted that the eviction order has been issued during the pendency of the application of the petitioner for restoration of the appeal.

9. It is submitted that the petitioner herein was earlier granted stay by this Court in *CM (M) No.310/2022* by order dated 27.04.2022, till the disposal of stay application in *PPA No. 02/2021*, pending before the learned District Judge (Headquarter), Tis Hazari Courts, Delhi. It is submitted that stay application was allowed by the learned District Judge (Headquarter) on 06.05.2022 and thus, the stay in favour of the petitioner continued.

10. It is submitted that the appeal being *PPA No. 02/2021* titled as *Pushplata Sharma Vs. The Estate Officer, PWD* was pending before the Ld. District Judge (Headquarter), Tis Hazari Courts, Delhi and the same was listed for final arguments on 20.10.2022. It is submitted that due to medical reason, the petitioner could not come to the Court on

that date. Similarly, the counsel for the petitioner was also unable to appear before the learned District Judge on the said date. Thus, the appeal i.e. *PPA No. 02/2021* was dismissed in default on the said date i.e. 20.10.2022.

11. It is submitted that immediately an application for the restoration was filed on behalf of the petitioner herein. However, the said restoration application is pending before the Court of learned District Judge (Headquarter), Tis Hazari Courts, Delhi for long.

12. Attention of this Court has been drawn to Annexure P -3, which is the application for restoration filed on behalf of the petitioner on 27.10.2022. It is the contention on behalf of the petitioner that the appeal of the petitioner was dismissed in default on 20.10.2022 and the application for restoration was filed immediately on 27.10.2022. It is further submitted that despite filing of the application for restoration on 27.10.2022, the said application has been pending for the last six months and till date, reply on behalf of the respondent has not been filed. It is further submitted that during the pendency of the application for restoration of the appeal, an eviction order dated 05.04.2023 was passed by the learned Estate Officer, PWD for vacation of the public premises i.e. Quarter No. 1987, Type II, Sindora Khurd, Delhi.

13. None appears for the respondent, despite advance service to the respondent on their official e-mail address.

14. It is not disputed that pursuant to the eviction order dated 05.04.2023, the petitioner has already been evicted on 12.04.2023.

15. The petitioner seeks restoration of the possession of the public premises on the ground that due to Covid – 19 and age related health factors, she could not find any suitable accommodation. Further, an undertaking has been given on behalf of the petitioner that in case the petitioner is granted repossession of the premises in question, she shall vacate the same as soon as she finds a suitable alternative accommodation. This Court is not inclined to grant any relief. At this stage, learned Counsel for the petitioner submits that he may be granted liberty to approach the District Court and he would make appropriate submissions before the said court.

16. In view thereof, the petitioner herein is granted liberty to make all submissions before the learned District Judge (Headquarter), Tis Hazari Courts, Delhi by moving an appropriate application for considering the case of the petitioner for any interim directions. The same shall be considered by the 1d. District Court on its merits as per law.

17. Considering the submissions made on behalf of the petitioner, directions are given to the learned District Judge (Headquarter), Tis Hazari Courts, Delhi to deal with the application for restoration of the appeal of the petitioner herein expeditiously.

18. With the aforesaid observations, the present petition is disposed of.

MINI PUSHKARNA, J

APRIL 26, 2023/ PB