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

Date of Decision: 3rd October, 2023.

\+ **W.P.(C) 12877/2023 & CM APPL. 50706/2023, CM APPL. 50707/2023**

KAWATRA TENT AND CATERERS PRIVATE LIMITED
..... Petitioner

Through: Mr. Sandeep Sethi, Senior Advocate with Mr. M. S. Bammi, Ms. Riya Kumar, Mr. Mrinal Singh, Mr. Prateek Gandotra and Ms. Deepshikha, Advocates.

versus

THE DIRECTOR (R.P. CELL) DELHI URBAN SHELTER IMPROVEMENT BOARD AND ANR. ..... Respondents

Through: Mr. Rishi Kant Singh, Advocate with Mr. Rao, Dy. Director for DUSIB.

CORAM:
HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE SANJEEV NARULA

JUDGMENT

SANJEEV NARULA, J. (Oral):

1. The present writ petition arises from a concluded contractual relationship between the Petitioner and the Respondents, concerning a license over a piece of land. With the license term having ended and in the backdrop of an impending Notice Inviting Tender ("**NIT**") by the Respondents, the Petitioner has sought intervention of this Court. Their plea is twofold: first, they urge issuance of anticipated NIT without undue delay,

and second, they petition for a continuation of their occupation of the land until completion of the forthcoming tender process. The dispute thus revolves around the balance of contractual rights, commercial interests, and broader principles of legal predictability and fairness.

FACTS AND SUBMISSIONS OF THE PARTIES:

2. The factual background relating to the instant petition is as follows:

2.1. On 14th September, 2020, the Delhi Urban Shelter Improvement Board ("**DUSIB**") issued a NIT for allotment of an open/vacant parcel of land designated as Chunks A to E, each admeasuring 9200 sq. mtrs., at District Centre, West Delhi, Shivaji Place, Raja Garden, New Delhi (*collectively referred to as the* "**Land Parcel**"). The land was being allotted for temporary utilisation towards hosting marriages, social and religious gatherings, fairs, exhibitions, and other cultural events under a licensing agreement.

2.2. The Petitioner emerged as the highest bidder for "Chunk D" and was granted license rights over the same (*hereinafter referred to as the* "**Subject Land**"). A Letter of Acceptance (LoA) was issued to the Petitioner on 20th January 2021, securing their rights over the Subject Land for a span of two years. Thereafter, in line with the terms of the tender, duration of the licensing agreement was extended on multiple occasions, from time to time, till 31st July, 2023.

2.3. DUSIB has initiated new tenders for the Land Parcel, but due to certain complications, those were annulled. On 07th August 2023, the Respondents directed the Petitioner to vacate the land in-question. In response, on 12th August 2023, the Petitioner urged the Respondents to conclude the tender process prior to demanding possession of the land. The

Respondents embarked on another tender process by issuing a NIT on 16th August 2023, yet the process remained incomplete.

3. Mr. Sandeep Sethi, learned Senior Counsel for Petitioner, submits as under:

3.1. Rather than concluding the tender process, Respondents have demanded that the Petitioner vacate the Subject Land, which poses a risk of revenue losses.

3.2. DUSIB is obligated to finalize the allotment process for the Subject Land before demanding Petitioner's eviction. The Petitioner has incurred significant expenses and investments to render the land fit for its designated use. Should the Petitioner emerge successful in the upcoming tender but is evicted in the interregnum, Petitioner's investments would be rendered futile. Given that the Petitioner has cleared the license fee up to 30th September, 2023, the Respondents would not suffer any prejudice if the Petitioner continues to occupy the land until the fresh tender process reaches a conclusion. Petitioner shall also undertake to pay the required license fee for such use.

3.3. Evicting the Petitioner from the Subject Land would not only inflict financial harm on the Petitioner but also deprive the Respondents of potential revenue streams from the land.

3.4. In the past, the Petitioner filed a writ petition being W.P.(C) No. 11894/2023 for completion of the tender process under NIT dated 15th June, 2023 for the land in-question. However, the same was withdrawn in light of the Respondents' decision to cancel the NIT dated 15th June, 2023 and issue a fresh NIT dated 16th August, 2023.

4. Contrarily, Mr. Rishi Kant Singh, learned counsel representing the

Respondents, contends that with expiration of the license term, the Petitioner no longer possesses any legal or inherent right to occupy the Subject Land. According to him, the Respondents have the autonomy to decide the best utilization of the land, negating the basis for the mandamus sought by the Petitioner.

ANALYSIS AND FINDINGS:

5. On a prior occasion, the Petitioner, along with several other entities, had approached this Court under similar circumstances. At that juncture, DUSIB had similarly sought possession of various segments of the land, inclusive of the Subject Land. Those cases were adjudicated and resolved by this Court on 28th September 2020.[1] The Court permitted the Petitioners therein to maintain their occupation of the land, provided they adhered to stipulated terms, specifically concerning the payment of license fees/ occupation charges. The relevant excerpt from the order dated 28th September 2020, is as follows:

> *"3. Mr. Anil Sapra, learned Senior Advocate appearing for the petitioner in WP(C) No. 6784/2020, Mr. Sudhir Nandrajog, learned Sr. Advocate appearing for the petitioner in WP(C) Nos. 6786/2020 & 6788/2020 and Mr. Pushkar Sood, learned counsel appearing for the petitioner in WP(C) No. 7113/2020 state on instructions that their clients are proposing to submit their bids in respect of the fresh NIT issued by the respondent /DUSIB on 14.9.2020. They request that in the event they are not declared as H-1 in the subject NIT issued on 14.9.2020, they be given a reasonable time to hand over vacant peaceful possession of the chunks of land under their occupation by removing the temporary structures raised thereon.*
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> *4. Mr. Chauhan learned counsel for the respondent/DUSIB states on instructions that if the petitioners are ready and willing to file their affidavits in their respective petitions, giving an undertaking to the court on the aforesaid lines then, without prejudice to the right of the DUSIB to recover the arrears of licence fee/occupation charges in respect of the*

[1] M/s Kohli Tent House v. Delhi Urban Shelter Improvement Board & Ors. [W.P. (C) 6784/2020] and connected matters.

chunks of land under the occupation of the petitioners in accordance with law, they will not take any coercive steps against them for the period as may be ordered by the court.

5. In view of the submissions made hereinabove with the consent of parties, the present petitions are disposed of with the following directions :-

i) Each of the petitioners shall file an affidavit/undertaking stating inter alia that in the event they are not declared as the successful bidders in the subject tender floated by the respondent/DUSIB on 14.9.2020, then they shall hand over the vacant peaceful physical possession of the respective chunks of land under their occupation to the respondent/DUSIB within 10 working days reckoned from the date DUSIB finalises the highest bidder. The aforesaid undertaking shall be filed on or before 03.10.2020, with copies furnished to other side.

ii) Without prejudice to its right to recover the arrears of licence fee and occupation charges from the petitioners, the respondent/DUSIB shall not take any coercive steps against the petitioners for a period of 10 days reckoned from the date of declaration of the highest bidder in respect of the chunk of land under their occupation.

6. The petitions are disposed of with the aforesaid directions along with the pending applications."

6. The aforementioned directions were formulated on the assertions made by DUSIB's counsel. However, in the present context, DUSIB has distinctly indicated their disinclination towards allowing the Petitioner's continued occupancy of the Subject Land. Given the lack of consensus from the Respondents, the Court has to evaluate the situation through the lens of contractual obligations. The contract governing the relationship between the parties is founded on the stipulations contained in the NIT. In the pleadings, Petitioner asserts that the bid for "Chunk D" was in terms of NIT dated 11th December, 2020, which is annexed to the petition as Annexure P-5 (Colly). Although the said NIT is in respect of "Chunk C", the Petitioner contends that the tender process under the said NIT was contiguous to NIT dated 14th

September, 2020 for the Land Parcel.

7. The contractual clauses that define the relationship between the parties are unambiguous. Petitioner's relationship with the land is solely as a licensee, without any supplementary rights. Both the initial and extendable durations of the license have elapsed — a fact which is uncontested. The land under discussion is unequivocally owned by DUSIB, precluding the Petitioner from asserting any proprietary rights, claims, or interests. On this aspect, the salient terms of the contract, stemming from the NIT dated 11th December, 2020, are as follows:

> *"61. The permission by DUSIB shall be for a limited period only for use as per E-Auction terms and conditions and agreement related thereto. This does not create any tenancy rights enjoyable by the selected bidder.*
>
> *62. The land of such site shall always remain the property of DUSIB and the bidder shall not claim any right/ title or interest to any right or any nature of easement in relation to or in respect thereto."*

8. Moreover, Clause 26 of the aforesaid NIT denotes that the term of the agreement was fixed for a period of two years. Post this duration, onus was on the Petitioner to return the specified land segment to DUSIB, ensuring it remained vacant and unaltered. Clause 27 of the said NIT further stipulates that if DUSIB was unable to finalize the subsequent auction process by the end of the term of the original agreement, the duration of original agreement could be extended on a monthly basis, but only up to a maximum of six months. In the present scenario, the initial term culminated on 31st January, 2023 – a fact which is not in dispute. Acting upon Clause 27, DUSIB sanctioned a six-month extension, from 31st January 2023 to 31st July 2023, in monthly intervals. The subsequent e-tenders initiated by the Respondents, in respect of the Land Parcel (Chunks A through E in West District Shivaji

Place, Raja Garden, New Delhi), unfortunately yielded no effective response and were thus deemed non-competitive. Given these developments and the clear mandate that no provision allowed an extension beyond 31st July, 2023, the Respondents' demand for the Petitioner to relinquish control and deliver possession of the land stands on firm ground and is wholly justified.

9. It is imperative to note that licenses, by their nature, do not confer any proprietary rights to the licensee. The rights of a licensee are circumscribed by the explicit terms and conditions set forth in the agreement. The sanctity of these contractual agreements is the cornerstone of commerce, ensuring predictability in dealings. It is crucial that contracts are honoured, and that parties operate within their defined boundaries. When the terms of such agreements lapse, they cannot be unilaterally extended, without mutual consent.

10. The Petitioner neither possesses a legal nor inherent right to maintain their occupation of the Subject Land. Merely having made investments to render the land suitable for its intended use does not vest any special rights to seek extension of license term. The Petitioner willingly entered into this commercial agreement, fully cognizant of the duration of the terms of the license. This Court is not bound to decide the issue merely on the basis of economic implications faced by parties due to their commercial decisions. The obligations set forth in contracts have to be given precedence. While the Petitioner's investment decisions on the land are acknowledged, they were made within a well-defined legal and contractual framework. Any deviation from this arrangement especially when not supported by mutual agreement, would be antithetical to the very foundation of contractual obligations.

11. Given the absence of any legally-entrenched or intrinsic right, and

with the contractual term having reached its conclusion, the Petitioner's plea for the writ of mandamus to prolong its tenure stands on shaky ground. The Petitioner was never provided with an indefinite right to the land but was, instead, working within the defined confines of a time-limited license. The right to possession by DUSIB, as the owner of the land in-question, and their discretion in managing it, is a significant counterweight.

12. Considering the above, we find that the present petition is misconceived.

13. Dismissed, along with other pending applications.

SANJEEV NARULA, J

SATISH CHANDRA SHARMA, CJ

OCTOBER 3, 2023
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