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

% *Decided on: 19th January, 2023*

+ **W.P.(C) 17754/2022 & CM APPL. 56739/2022**

SH PARIMAL RAI EX CHAIRMAN Petitioner

Through: Mr. Mukesh Gupta,
Mr. Nialana Bandyopadhyay
and Ms. Vijaya Singh,
Advocates

versus

NEW DELHI MUNICIPAL COUNCIL PALIKA KENDRA
NEW DELHI Respondent

Through: Mr. Sandeep Aggarwal, Sr.
Advocate with Mr. Ankur
Chibber, ASC, NDMC and
Mr. Tushar Sannu, ASC,
NDMC (Ph. 9810082847)

CORAM:
HON'BLE MS. JUSTICE MINI PUSHKARNA

[Physical Hearing/ Hybrid Hearing]

MINI PUSHKARNA, J. (ORAL):

1. The present writ petition has been filed on behalf of the petitioner with prayer for quashing and setting aside the judgment dated 23.12.2022 passed by the learned Principal District and Sessions Judge, Patiala House, New Delhi in PPA No. 25/2022 and order dated 18.11.2022 issued by the learned Estate Officer in Case No. 08/EO/(MH)/2022.

2. By way of judgment dated 23.12.2022, learned Principal District and Sessions Judge upheld the order dated 18.11.2022 passed

by the learned Estate Officer by which eviction order has been passed against the petitioner herein.

3. When the matter was listed for hearing on 26.12.2022 before this Court, an undertaking had been recorded on behalf of the petitioner that the petitioner may be permitted to vacate the premises by 31.01.2023. Thus, orders were passed by this Court directing the learned Additional Standing Counsel for NDMC to seek instructions with respect to the request made on behalf of the petitioner.

4. Thereafter, on 05.01.2023, learned Additional Standing Counsel for respondent made categorical statement before this Court that he has instructions to state that the respondent- NDMC had no objection if the petitioner vacates the premises in question by 31.01.2023 on damage charge basis.

5. Today, Mr. Mukesh Gupta, learned counsel appearing for the petitioner submits that though the petitioner has already engaged the services of professional movers and packers for purposes of moving his goods from the premises in question, however, he submits that the petitioner may be granted time of further ten days beyond 31.01.2023 for shifting out of the premises in question.

6. The request made on behalf of the petitioner has been put to learned counsels appearing for respondent-NDMC. Mr. Sandeep Aggarwal, Senior Advocate with Mr. Ankur Chhibber and Mr. Tushar Sannu, Additional Standing Counsels for NDMC submit that they have instructions not to grant any further time to the petitioner for vacating the premises beyond 31.01.2023, which was the original

request made on behalf of the petitioner.

7. This Court has heard learned counsel for the parties.

8. Mr. Mukesh Gupta, learned counsel appearing on behalf of the petitioner submits that he is not pressing the present petition on merits and is only beseeching this Court for the purposes of granting further more time to the petitioner for vacating the premises.

9. It is seen from the record that there are already judicial and quasi-judicial orders against the petitioner for eviction from the premises in question.

10. The petitioner is not pressing the present writ petition on merits. This Court had already recorded a statement on behalf of the petitioner on 26.12.2022, wherein the petitioner had requested time till 31.01.2023 for vacating the premises. Even when the matter was listed on 13.01.2023, the statement was made on behalf of the petitioner that the petitioner was not pressing for any stay beyond 31.01.2023.

11. It is noted that the respondent-NDMC has already been benevolent and has allowed the petitioner to stay in the premises and gave its 'no objection' for stay of the petitioner in the premises in question till 31.01.2023. The said 'no objection' was given by NDMC despite eviction order dated 18.11.2022 against the petitioner as passed by the Estate Officer and judgment dated 23.12.2022 passed by the District and Sessions Judge, Patiala House Courts, upholding the eviction order against the petitioner. Thus, this Court, in the absence of any further 'no objection' from the respondent- NDMC, cannot extend the stay of the petitioner.

12. In view thereof, it is directed that the petitioner shall vacate the premises in question on or before 31.01.2023.

13. In case the petitioner does not vacate the premises by 31.01.2023, the respondent- NDMC shall be at liberty to take action for vacation of the premises in question, as per law and authority as available with the NDMC.

14. It is made clear that NDMC shall be entitled to recover the charges/ market rent from the petitioner for the period for which the petitioner has occupied the premises, as per Rules and Regulations of NDMC.

15. The present petition is disposed of in the aforesaid terms along it- with all the pending applications.

MINI PUSHKARNA, J

JANUARY 19, 2023/PB