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

+ **CONT.CAS(C) 32/2024 & CM APPL. 1078/2024**

RAJIV KOHLI

..... Petitioner

Through: **Mr. Abhishek Sandillya, Advocate**
(M:7827288178)

versus

SHRI RADHA KRISHAN DIRECTOR ESTATE 1 DEPARTMENT

..... Respondent

Through: **Mr. Saad Shervani, ASC with Mr.**
Elvin Joshy, Mr. Mananjay Mishra,
Advocates (M:9910000400)

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Date of Decision: 08th April, 2024

CORAM:

HON'BLE MS. JUSTICE MINI PUSHKARNA

J U D G M E N T

MINI PUSHKARNA, J: (ORAL)

1. The present petition has been filed alleging willful disobedience of the order dated 15th February, 2023 passed in *W.P.(C) 4522/2022*.
2. By way of the aforesaid order dated 15th February, 2023, the writ petition filed by the petitioner was disposed of by stating that the petitioner shall file a comprehensive representation with the respondent and that the said representation shall be decided by New Delhi Municipal Council ("NDMC") after granting personal hearing to the petitioner. Since, the speaking order in terms of the order dated 15th February, 2023 had not been passed by the respondent, the present contempt petition was filed.
3. Today, learned counsel for respondent-NDMC has handed over a copy of the speaking order dated 04th April, 2024. The said speaking order is



taken on record.

4. The relevant portions of the speaking order passed by the respondent, reads as under:

“xxx xxx xxx

8. And whereas, the existing policy for transfer of allotment on a legal heir basis and renewal of the license deed allows applicants to apply before 31.12.2019 only;

9. And whereas, the above period has not been extended by the council further and the policy dated 16.08.2016 on the above issue is still under review to be finalized;

10. And whereas, in compliance with the Hon'ble Delhi High Court's order dated 15.02.2023, the matter was examined thoroughly.

11. And whereas, in the light of the above mentioned facts and with a view to resolve the disputes to meet the ends of justice, it is hereby decided that the outstanding license fee of Rs. 58,92,145/- is not justified.

12. And whereas, the License Deed dated 23.11.2010, w.e.f. 21.12.2005 upto 31.03.2019 executed between NDMC and the occupants of Shop No. 3, Mohan Singh Place, New Delhi has already expired on 31.03.2019 and that the Department has decided not to renew the Licence Deed.

13. Now, therefore, the occupants shall hand over peaceful vacant possession of the Shop No. 3, Mohan Singh Place, New Delhi within a period of 07 days from the date of issue of this Order in terms of the clause no. 1 of the license deed agreement.

Dy. Director Estate”

5. Perusal of the aforesaid speaking order clearly shows that as per the respondent-NDMC, the License Deed of the petitioner has already expired on 31st March, 2019 and that the respondent has decided not to renew the License Deed.

6. This Court notes that the order dated 15th February, 2023 was only to the extent of deciding the representation of the petitioner herein. Law is



settled to the extent that no independent or further orders can be passed by Court in the contempt proceedings. Therefore, once it is the stand of respondent-NDMC that the License period of the petitioner for Shop No. 3, Mohan Singh Place, New Delhi, has already expired and that the said License Deed has not been renewed, it is for the petitioner to seek adjudication of said grievance in appropriate legal proceedings.

7. Thus, holding that the contempt Court should confine itself only to the explicit directions that are manifest from plain reading of an order, Supreme Court in the case of *Sudhir Vasudeva, Chairman and Managing Director, Oil and Natural Gas Corporation Limited and Others Versus M. George Ravishekar and Others*, (2014) 3 SCC 373 has held as under:

“xxx xxx xxx

*19. The power vested in the High Courts as well as this Court to punish for contempt is a special and rare power available both under the Constitution as well as the Contempt of Courts Act, 1971. It is a drastic power which, if misdirected, could even curb the liberty of the individual charged with commission of contempt. The very nature of the power casts a sacred duty in the Courts to exercise the same with the greatest of care and caution. This is also necessary as, more often than not, adjudication of a contempt plea involves a process of self-determination of the sweep, meaning and effect of the order in respect of which disobedience is alleged. **The Courts must not, therefore, travel beyond the four corners of the order which is alleged to have been flouted or enter into questions that have not been dealt with or decided in the judgment or the order violation of which is alleged. Only such directions which are explicit in a judgment or order or are plainly self-evident ought to be taken into account for the purpose of consideration as to whether there has been any disobedience or wilful violation of the same.** Decided issues cannot be reopened; nor can the plea of equities be considered. The Courts must also ensure that while considering a contempt plea the power available to the Court in other corrective jurisdictions like review or appeal is not trenching upon. **No order or direction supplemental to what has been already expressed should be issued by the Court while exercising jurisdiction in the domain of the contempt law; such an exercise is more appropriate in other jurisdictions vested in the***



Court, as noticed above. *The above principles would appear to be the cumulative outcome of the precedents cited at the Bar, namely, Jhareswar Prasad Paul v. Tarak Nath Ganguly [(2002) 5 SCC 352 : 2002 SCC (L&S) 703] , V.M. Manohar Prasad v. N. Ratnam Raju [(2004) 13 SCC 610 : 2006 SCC (L&S) 907] , Bihar Finance Service House Construction Coop. Society Ltd. v. Gautam Goswami [(2008) 5 SCC 339] and Union of India v. Subedar Devassy PV [(2006) 1 SCC 613].*

xxx xxx xxx”

(Emphasis Supplied)

8. At this stage, learned counsel for petitioner submits that the respondent was required to pass a speaking order within a period of four weeks of the order dated 15th February, 2023. However, the said order has been passed only recently, i.e., on 04th April, 2024.

9. He further submits that as per the order dated 15th February, 2023, respondent had to consider the case of the petitioner in the light of the fact that other shops viz., Shop No.3, Krishna Menon Marg, Shop No. 7, 76 and 96 in Mohan Singh Palace were de-sealed in similar circumstances, as in the present case. He submits that the said fact has not been considered in the speaking order.

10. Per contra, learned counsel for respondent-NDMC states that though the circumstances of the petitioner and other said shops were similar, however, the factual matrix as involved in the said shops are completely different.

11. This Court has perused the speaking order dated 04th April, 2024. It is seen that the aspect with respect to the circumstances in which the other shops were de-sealed, has not been dealt with by the respondent in the speaking order. However, considering the limited scope of the present petition, liberty is granted to the petitioner to raise all these issues in



independent proceedings in accordance with law, especially in view of the categorical stand of the respondent-NDMC that the license deed of the petitioner has already expired and that the department has decided not to renew the license deed. The right of the petitioner as regards his entitlement to renewal of his license deed or to be treated at par with other shops, as aforesaid, would essentially have to be adjudicated in independent proceedings. The said issues cannot be decided by this Court in the present proceedings.

12. Considering the aforesaid circumstances and in order to balance the equities, the time period of seven days for handing over the peaceful vacant possession of the Shop No. 3, Mohan Singh Palace, New Delhi as given in speaking order dated 04th April, 2024, is extended for a period of three weeks from today.

13. Needless to state that in view of the extension of time period as given in the speaking order dated 04th April, 2024, respondent-NDMC shall not take any coercive steps against the petitioner for a period of three weeks from today.

14. With the aforesaid directions, the present petition is disposed of, along with pending application.

MINI PUSHKARNA, J

APRIL 8, 2024

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