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

+ **W.P.(C) 2292/2024**

PRINCE GUPTA

..... Petitioner

Through: Mr. Ankit singh and Mr. Dhananjay
Kumar, Advs.

versus

NEW DELHI MUNICIPAL COUNCIL & ANR. Respondents

Through: Mr. Abhinav Bajaj, ASC along with
Mr. Saksham Ojha and Ms. Geetakshi
Chandna, Advs. for NDMC.
Mr. Dhruv Mohan and Ms. Madhu
Vishnoi, Advs.

CORAM:

HON'BLE MR. JUSTICE SACHIN DATTA

ORDER

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19.02.2024

CM APPL. 9525/2024 (Exemption)

Allowed, subject to all just exceptions.

The application stands disposed of.

W.P.(C) 2292/2024 and CM APPL. 9524/2024 (Stay)

1. The present petition has been filed by the petitioner raising a grievance on account of omission on the part of the respondents for not granting possession to the petitioner of kiosk bearing no.1-A/S, Vayu Bhawan, Rafi Marg, New Delhi.

2. A vacation notice dated 08.11.2023 was served upon the petitioner requiring the petitioner to vacate the kiosk for a period of 45 days. The said vacation notice dated 08.11.2023 reads as follows :

“This is to inform that matter is under consideration w.r.t handing over



of three kiosk of NDMC on Rafi Marg, near Udyog Bhawan to Ministry of Housing and Urban Affairs (CPWD) for a period of 45 days for redevelopment of Kartavya Path to be reconstructed with modified design given by the CPWD, in a way that same fits into the overall design of Kartavya Path, CPWD is planning to start the work of construction of new shops after demolishing the existing structures. Accordingly, it has decided to hand over the kiosk to CPWD to start the necessary work start urgently.”

3. The petitioner submits that the site in question was vacated pursuant to the aforesaid vacation notice. According to the petitioner, the site is liable to be restored to the petitioner upon expiry of the period referred to in the vacation notice.

4. Although the aforesaid vacation notice was addressed to Ram Sewak, the original allottee of the kiosk, the petitioner claims through the said original allottee. It is submitted that the entitlement of the petitioner in respect of the kiosk is covered by a policy/circular dated 09.10.2009, issued by the respondent/MCD which specifically contemplates as under:

“Taking cognizance of the request of the MCD, the Hon’ble Supreme court of India in the cases titled as “Galnda Ram & Others vs. MCD”, “Sudhir Madan vs. MCD & Others” in WPC No.1699/1987 vide judgment dated 09.04.2009, agreed to permit the change of hand/transfer by sale in respect of tehbazar/squatting sites and Vending/Hawking licence holders, where such change of hand/transfer by sale has taken place upto 06.02.2007....”

5. After some hearing, it is directed that the present petition shall be treated as a representation by the respondent/NDMC and a reasoned order shall be passed by the respondent after affording an opportunity to the petitioner, taking into account the averments made in the petition as also the extant policy of the respondent, filed as Annexure P-10 to the present petition. It is directed that a reasoned order shall be passed within a period of



six weeks from today.

6. Till the aforesaid exercise is complete, the respondent shall not take any steps to create any third party interest in the kiosk in question.
7. With the aforesaid directions, the present petition is disposed of.

SACHIN DATTA, J

FEBRUARY 19, 2024/cl