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

+ **W.P.(C) 6586/2022 & CM APPL. 20015/2022**

BOBBY SETHI

..... Petitioner

Through: Mr. Nipun Arora, Mr. Revanta Solanki, Ms. Annanya Mehan and Ms. Sanya Kalsi, Advocates.

versus

DUSIB & ORS.

..... Respondents

Through: Mr. Parvinder Chauhan and Ms. Aakriti Garg, Advocates for DUSIB.

CORAM:

HON'BLE MR. JUSTICE SUBRAMONIUM PRASAD

ORDER

05.03.2024

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1. The Petitioner has approached this Court challenging the Order dated 07.04.2022 by which the allotment of Plot being R-5, Kasturba Niketan Complex, Lajpat Nagar-II, Delhi (*hereinafter referred to as "property in question"*) has been cancelled.

2. Short of unnecessary details, the facts leading to the filing of the instant writ petition are that the property in question was initially allotted to one Sh. Kushal Chand on a free hold basis. Since the conveyance deed was not executed, the said Sh. Kushal Chand transferred the property in question to one Sh. Atul Kapoor by executing registered Agreement to Sell and General Power of Attorney on 24.04.2006. The said Sh. Atul Kapoor further transferred the property in question in favour of Smt. Tripat Bala Sethi, who



is the mother of the Petitioner, on 09.10.2006. It is stated that upon the death of Smt. Tripat Bala Sethi, the property in question has devolved on the Petitioner. Material on record indicates that a show cause notice was issued by the Respondent/DUSIB which is now the land owning agency on 11.01.2022 to the Petitioner. The relevant portion of the show cause notice reads as under:

Grounds

Violation of terms and conditions/undertaking given by the allottee before the allotment of alternative plot in r/o R- 5, Kasturba Niketan Complex, Lajpat Nagar-II, New Delhi -110024.

Now, therefore, in pursuance of section 41 of DUSIB Act, 2010. I hereby call upon you to show Cause Notice before the undersigned authorised in this regard that why such an order of eviction should not be made, for violation of terms and conditions undertaking of allotment letter dtd. 04.04.2005.

And in pursuance of section 41 of DUSIB Act-2010, I call upon you to appear before the undersigned in person or through a duly authorised representative along with the written reply/statement if any, in this regards and connected with the matter along with evidence which you intend to produce in support the cause shown, on 08.02.2022 at 2.30 P.M. for personal hearing. In case, you fail to appear on the said date and time along with your reply the case will be decided ex-parte without further notice in this regards."

3. A perusal of the show cause notice indicates that the show cause notice was primarily issued on the ground of unauthorized occupation by some other person on the property in question. A reply was also filed by the



Petitioner to the show cause notice. However, the Impugned Order dated 07.04.2022 has been passed by the Respondent/DUSIB on the ground that the property was put to use for commercial purpose which was not a ground in the show cause notice.

4. In view of the fact that the Impugned Order dated 07.04.2022 has been passed entirely on a different ground and the Petitioner has not been put to notice regarding the change of user, the Impugned Order dated 07.04.2022 is set aside.

5. It is always open for the Respondent/DUSIB to issue a fresh show cause notice to the Petitioner on the ground of change in user or any other violation and take action in accordance with law.

6. It is made clear that it is open for the Petitioner to file a representation before the Respondent/DUSIB stating that now the property is not in the possession of unauthorized occupants which shall be sympathetically considered by the Respondent/DUSIB.

7. In view of the above, the writ petition is disposed of, along with pending application(s), if any.

SUBRAMONIUM PRASAD, J

MARCH 5, 2024

S. Zakir