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

Date of decision: 01st MAY, 2024

IN THE MATTER OF:

+ **W.P.(C) 10161/2021 & CM APPL. 31320/2021**

AMRIT BALA SHARMA & ANR. Petitioners

Through: Mr. Ajay K. Sharma, Advocate.

versus

COMMISSIONER OF POLICE & ANR. Respondents

Through: Mr. Sameer Vashisht, ASC for
GNCTD with Ms. Harshita Nathrani,
Advocate.
SI Jitender Kumar, PS. BHD Nagar.

CORAM:

HON'BLE MR. JUSTICE SUBRAMONIUM PRASAD

JUDGMENT

1. Petitioners have approached this Court with the following prayers:

“a) Issue an appropriate writ, order or direction to the respondent to fix the enhanced revised rent and release payment in respect of premises of the petitioners w.e.f 01.12.2015 including payment of rent of additional construction raised by the petitioners on the instance of the respondents and rent for the notice period along with interest.

b) Issue an appropriate writ, order or direction to the respondent to set aside the decision of non-enhancement of rent of premises of the petitioners taken in meeting dt. 29.11.2019 and decision in its letter dt. 09.03.2021.

c) Any other relief, order or direction this court may



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deem fit and proper under the facts and circumstances of this case.”

2. It is stated that the Petitioners are the co-owners of Plot No.1, Surya Kunj, Najafgarh-Jharoda Road, New Delhi, admeasuring 2003 Sq. Mtrs. having covered area of 273.3 Sq. Mtr. (*hereinafter referred to as ‘the property in question’*). It is stated that the Petitioners gave the property in question on rent to the Delhi Police for operating Baba Hari Das Police Station for a period of five years with effect from 01.12.2010. The rent was to be fixed by the GNCTD in due course. It is stated that on 30.04.2011 a rent agreement was entered into between the parties. The lease deed which is an unregistered document provides that the rent of the property in question will increase after every 11 months, however, the lease deed does not mention the rent payable by the Delhi Police. Vide letter dated 03.05.2012, the rent fixation committee of the GNCTD fixed the rent of the property in question @ Rs.1,50,243/- per month w.e.f. 01.12.2010 to 30.11.2015. It is stated that at the request of the SHO Police Station Baba Hari Das Nagar five rooms and block of bathroom having covered area of 1762 sq. ft. was constructed by the Petitioner and was handed over to the SHO, Police Station Baba Hari Das Nagar on 01.07.2013. The period of lease was to expire in December 2015. On 13.12.2015, the Petitioner gave his willingness to continue the tenancy for a period as required by the Delhi Police. Accordingly, the tenancy continued and the rent of the premises in question was fixed @ Rs.1,76,817/- per month w.e.f. 01.12.2015. The premises in question was vacated by the Delhi Police on 24.08.2018. It is



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stated that on 22.05.2021, the Petitioner issued a legal notice to the Delhi Police claiming that the Petitioner is entitled to a much higher rent and demanded Rs. 35,02,257/- as arrears of rent from 01.12.2015 to 24.08.2018, additional rent of Rs. 86,80,000/- for the additional covered area w.e.f. 01.07.2013 and a sum of Rs. 7,69,116/- in lieu of three months' notice period along with interest@ 10% P.A w.e.f. September 2018 and a sum of Rs. 5,00,000/- for the damages for physical and mental suffering of the Petitioner. The said legal notice has been replied by the Office of Dy. Commissioner of Police stating that the Petitioner is not entitled to any kind of payment. The reply states that as per the decision of the Rent Fixation Committee's meeting, the Petitioner was paid rent @ Rs.1,62,262/- per month from 01.12.2015 to 30.11.2016 and from 01.12.2016 to 30.11.2017 the Petitioner was paid rent amounting to Rs.1,75,243/- per month and from 01.12.2017 to 24.08.2018 the Petitioner was paid rent @ Rs.1,76,817/- per month. The Petitioner has, thereafter, approached this Court by filing the present Writ Petition.

3. Learned Counsel for the Petitioner has drawn the attention of this Court to several correspondence regarding fixation of rent in respect of the property in question and states that the Petitioner was always assured by the Delhi Police that reasonable rent would be fixed. He states that the Petitioner expected that the instrumentality of the State, the Government would be fair and fix a reasonable rent for the premises in question. Learned Counsel for the Petitioner states that despite repeated requests from the Office of the Commissioner of Police to fix a reasonable rent, the same was



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not done. Learned Counsel for the Petitioner places reliance on the Judgment of the Apex Court in State of Jharkhand v. Brahmaputra Metalics Ltd., (2023) 10 SCC 634.

4. *Per contra*, learned Counsel for the Respondent contends that an agreement was entered into on 30.04.2011 which was for eleven months and the Respondent was only a month-to-month tenant. He states that the rent for the premises in question was fixed by the Rent Fixation Committee. He also draws the attention of this Court to certificate dated 16.01.2019 fixing rent @ Rs.1,76,817/-. He states that the rent has been calculated on the basis of the guidelines dated 25.05.2004 issued by the Directorate General, PWD. He further states that there was no promise from the State Government to the Petitioner regarding the rent that would be paid for the premises in question and, therefore, the doctrine of promissory estoppels cannot be invoked by the Petitioner in the present case.

5. Heard the counsels for the parties and perused the material on record.

6. A perusal of the material on record indicates that an unregistered lease deed was entered into between the Petitioner and the Delhi Police for renting the premises in question for a period of 11 months. The Rent Fixation Committee fixed the rent @ @ Rs.1,62,262/- per month from 01.12.2015 to 30.11.2016 and from 01.12.2016 to 30.11.2017 the Petitioner was paid rent amounting to Rs.1,75,243/- per month and from 01.12.2017 to 24.08.2018 the Petitioner was paid rent @ Rs.1,76,817/- per month. The Communication dated 16.01.2019, issued by the Executive Engineer, CBM Division, PWD, GNCTD, indicates that the rent has been calculated on the



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basis of the guidelines issued by the Directorate General of Works, CPWD vide No.8/1/2002-W.II dated 24.05.2004. The said communication reads as under:

“1. Certified that reasonable rent of Premises with description as Police Station Baba Haridas Nagar (South West Distt. New Delhi) owned by Mrs Amrit Bala Sharma & Mr. Mahesh Sharma already under tenancy of Police Department (name of the hiring Department) has been assessed as per guidelines issued by Directorate General of Works, CPWD vide No.8/1/2002- W.II(DGW)Pt. Dated 24.5.2004 the rent as effective from 01.12.2015 works out to Rs. 17.71/sq. ft in words (Seventeen Point Seven one) per sq.ft. per month of built up area, the monthly

rent will be Rs. 1,76,817/- in words (One Lac Seventy Six Thousand Eight Hundred Seventeen) as per recognized principals of valuation.

2. It shall be the responsibility of hiring department to see if the rent assessed as above is to restricted to any particular limit in view of the terms and conditions of the existing lease assessment or any other relevant instructions issued by the competent authority to this effect.

3. The rent as indicated above is inclusive of (1) Surplus usable land in the campus surplus 1032.90 Sqm approx to be utilized exclusively by the Hiring Department for parking purposes etc. (ii) Regular repairs and maintenance of the premises; (iii) Exclusive of Municipal Tax (House/Property Tax), Water & Electricity charges etc as mutually agreed.

4. The Municipal Tax component excluded in the rent



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is as per municipal by laws. It will be for the Hiring Department to settle the terms of payment of the rent to the owner with or without Municipal Tax by following any of the following alternatives: (a) Pay only net rent first and reimburse municipal tax to the owner separately on submission of proof of actual payment. (b) Pay only net rent to the owner and pay municipal tax directly to the local body. (c) Pay composite rent. As municipal tax component of the rent has already been spelt out above, no request shall be entertained by Hiring Committee for re-assessment of rent on account of subsequent increase/ decrease in municipal tax, if any. It shall accordingly be for the hiring department to settle it in the beginning by a mutual agreement as to how such subsequent Increase or decrease in municipal tax, if any shall be dealt with. Prevailing market rent in the nearby locality is not available to this office.”

7. The premises was vacated on 24.08.2018. The Petitioner did not file a suit for recovery of any amount of money. The said suit ought to have been filed before 24.08.2021. Instead of filing a suit the Petitioner has approached this Court by filing a Writ Petition beyond the period of limitation for filing a suit on the basis of legitimate expectation. The concept of legitimate expectation and promissory estoppels has been explained by the Apex Court in a number of judgments. For invoking the principles of promissory estoppel there has to be a promise and on the basis of the promise, the party concerned must have acted to its prejudice. In the present case, the material on record does not show any kind of promise regarding fixing the rent at a higher value than what has been fixed. The first agreement was entered into on 30.04.2011. The Petitioner has shown his willingness to continue with



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the tenancy and as stated above, there is no material on record that there was any promise on the part of the State that the rent would be increased and, therefore, the concept of promissory estoppel cannot be invoked. The Doctrine of Legitimate Expectation is founded on the principles of fairness. It comes into play if a public body leads an individual to believe that it will be given a substantial benefit and such a benefit, which is expected by the individual, is denied. In the facts of the present case the Departmental communication to which the Petitioner was never privy and which had been obtained by the Petitioner only through RTI does not give rise to any expectation to the Petitioner.

8. The right course of action for the Petitioner was to file a suit and demonstrate by leading evidence that similarly situated properties were fetching higher rent.

9. A feeble attempt was made by the Petitioner while relying on the decision dated 04.12.2019 whereby the rent has been increased with respect to the property at C-1, Khasra No.117/2, Ziauddin, Wazirabad Road, Delhi, which was also taken on rent by the Delhi Police for operating Police Station Gokal Puri, the rent was increased even after the Police has vacated the said premises. In the said case, the rent for the said property was @ Rs.1 per sq. ft. whereas in the present case the rent was @ Rs.17.71 per sq. ft. and both the cases are not comparable. The Petitioner cannot rely on the said decision and seek for enhancement of rent even after the Respondent has vacated the property. The rent paid for the property in question was much higher than what was paid to the property at C-1, Khasra No.117/2,



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Ziauddin, Wazirabad Road, Delhi and no reliance can be placed on the said case. The Petitioner has failed to make out a case for enhancement of rent.

10. Accordingly, the Writ Petition is dismissed. Pending applications, if any, also stand dismissed.

SUBRAMONIUM PRASAD, J

MAY 01, 2024

Rahul