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

+ **W.P.(C) 10746/2024 & CM APPL. 44268/2024**

SANTOSH KUMAR

.....Petitioner

Through: Mr.Abhinav Sharma, Mr.Manish
Tanwar and Mr.Chand Kapoor, Advs.

Versus

MUNICIPAL CORPORTION OF DELHI

.....Respondent

Through: Mr.Ashutosh Gupta, ASC for MCD.

CORAM:

HON'BLE MR. JUSTICE PURUSHAINdra KUMAR KAURAV

ORDER

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13.08.2024

1. The petitioner has filed the instant writ petition under Article 226 of the Constitution of India seeking quashing of the closure notice dated 24.07.2024 issued by the respondent. He has also prayed for directions to the respondent to make appropriate rectification in the address of the petitioner in health trade license dated 02.08.2023.
2. The record would reflect that the petitioner entered into a lease agreement with Sh. Harish Kumar in respect of property bearing private shop no.2 and 3 on the ground floor with roof/terrace rights as part of property no. WZ L-9, situated at Bal Udyan Marg Road, Block-L, Uttam Nagar, New Delhi -110059 (hereinafter as '**L-9**'). The said agreement was entered into by way of a registered lease deed dated 24.05.2022, registered with Sub-Registrar Janakpuri. Thereafter, a Health Trade License was issued to the petitioner for operating an eating establishment with a validity till



31.03.2026.

3. Learned counsel appearing for the petitioner submits that on account of inadvertence, he applied for the concerned license over a property situated at L-8 and L-9. The mistake occurred presumably on the ground that the lease deed itself contained the details of the property situated at L-9 as L-8 and L-9 both.

4. Learned counsel for the petitioner, therefore, submits that on 02.08.2023, the license was granted and on 04.06.2024, the respondent-MCD served upon him a notice to show cause as to why the license should not be cancelled on the pretext that the petitioner has wrongly applied for the license over the property being L-8 and L-9. The petitioner, thereafter, submitted a reply on 08.06.2024, wherein, he accepted the inadvertence and stated that the application over property L-8 and L-9 was wrongly made. He, further states that that the shop in question is situated on property L-9 and therefore, the inadvertence be condoned and no further action be taken against him. The petitioner also submits that upon realising the mistake in the lease deed, he immediately undertook necessary steps and eventually on 12.06.2024, necessary rectification was also carried out in the lease deed.

5. Thereafter, on 19.06.2024, he intimated the respondent-MCD about the correction in the lease deed and requested for necessary consideration. According to him, without considering the aforesaid aspect, *vide* impugned notice, action was taken by the respondent-MCD.

6. The respondent-MCD has filed its counter-affidavit and has stated that the correction in the license is not permissible in view of various technical problems, as has been enumerated in the counter-affidavit.

7. I have considered the submissions made by the learned counsel for the



parties and perused the record.

8. The show cause notice is mainly premised on the ground that the petitioner is not the owner of the subject property i.e., L-8 and L-9. The respondent-MCD does not dispute the aforesaid position and has stated that the petitioner inadvertently applied over L-8 as well alongwith L-9 and took necessary steps for rectification in the lease deed as well. The correction in the lease deed was allowed on 12.06.2024, which reads as under:-

" Whereas the lease out property may be read as Pvt. Shop No.2 & 3, on Ground Floor without Roof/Terrace Rights, Part of Property No.WZ-L-9, situated at Bal Udhyan Marg, Block-L, Uttam Nagar, New Delhi-110059.

INSTEAD OF

Shop No.2 & 3, on Ground Floor Part of Property No.L-8 & L-9, situated at Bal Udhyan Road, Uttam Nagar, New Delhi-110059."

9. It is also not the case of the respondent-MCD that the petitioner is operating any business over property L-8. The fact remains that he is the occupant of L-9 only.

10. In view of the aforesaid, the Court deems it appropriate to dispose of the instant writ petition with the following directions:-

(i) Let the petitioner to apply afresh on the basis of the correction which has been carried out in his lease deed. If the petitioner makes a fresh application/representation, let the same be considered by the respondent-MCD, being uninfluenced by the decision which has been taken on 24.07.2024.

(ii) The respondent-MCD shall consider the application/representation within a period of 7 days from the date of the



application/representation.

(iii) Till the respondent-MCD considers the petitioner's application/representation afresh, the petitioner shall be permitted to carry out his business over the property being L-9.

11. Accordingly, the instant writ petition along with pending application stands disposed of.

PURUSHAINdra KUMAR KAURAV, J

AUGUST 13, 2024/MJ