



\$~74

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

+ **W.P.(C) 13419/2024 & CM APPL. 56106/2024**

MS. NABANITA BANDHYOPADHYAYAPetitioner

Through: Mr. Sunil Kumar and Mr. Pran
Krishna, Advocates.

versus

PRINCIPAL DISTRICT AND SESSIONS JUDGE (EAST)

.....Respondent

Through: Mr. Satyakam, ASC.

CORAM:

HON'BLE MR. JUSTICE SANJEEV NARULA

ORDER

24.09.2024

%

1. The Petitioner is a practising lawyer enrolled with the Bar Council of Delhi under Enrolment No. D/11727/2021. Her late husband, Mr. Tushar Kumar Mukherjee, was also a practising lawyer in the district courts of Delhi, who had been allotted Chamber No. E-711, E Block, Karkardooma Courts¹. He unfortunately passed away on 25th December, 2019.

2. Subsequently, on 29th January, 2022, the Petitioner applied with the Respondent for transfer of the Chamber in her favour. She contends that the application could not be submitted earlier due to the disruptions caused by the COVID-19 pandemic. However, her request for transfer of the Chamber was rejected through impugned order dated 04th July, 2024², on the ground that the Petitioner was not an advocate at the time of death of her husband,

¹ "the Chamber"

² "Impugned Order"



the original allottee.

3. In the above circumstances, the Petitioner has invoked this Court's jurisdiction to seek directions to the Respondent to allot/ transfer the Chamber in her name. The Petitioner asserts that she had enrolled in Maharishi University in 2017 to pursue her LL.B. degree while her husband was still alive, and that her legal education was not acquired after his death solely for the purpose of chamber allotment. Now that the Petitioner is a practising lawyer, she contends that she is entitled to the transfer of the Chamber in her name.

4. The Petitioner further argues that although her application for transfer was submitted as early as 29th January, 2022, the decision on the matter was rendered after an inordinate delay of over 2.5 years. She contends that had the decision been made expeditiously, she could have arranged for alternative accommodations in a timely manner. As a result of this prolonged delay in deciding on her eviction, the Petitioner, who has been practising from the Chamber, now faces the challenge of re-establishing her practice elsewhere, which would cause her significant hardship. Additionally, the Petitioner asserts that she is a poor and destitute woman, having lost her husband in a tragic road accident, and appeals to the equitable jurisdiction of this Court for appropriate relief.

5. Issue notice. Since there was no representation on behalf of the Respondent, Mr. Satyakam, ASC, has been requested to appear. Accordingly, he accepts notice on behalf of the Respondent.

6. The Court has considered the aforementioned contentions. The Impugned Order rejecting Petitioner's request reads as follows:



“Subject: Compliance of directions of Ld. Chamber Allotment Committee, KKD

Ma’am,

I am directed by Ld. Chamber Allotment Committee, KKD vide minutes of meeting dated 08.04.2024 to inform you that your application for transfer of Chamber No. E-711 dated 29.01.2022, on legal heir grounds, has been considered and declined with remarks that:-

“...the applicant was not an advocate on the date of death of the original allottee, thus, the present application is not in consonance with Rule 3 of District Courts Karkardooma Lawyers’ Chamber (Allotment & Occupancy) Rules (1995).”

You are, therefore, required to vacate the said chamber and deposit Rs. 4950/- outstanding towards the occupation charges upto the month of July 2024, within 15 days from receipt of this letter.”

7. From the above, it is evident that the Petitioner’s request for transfer of the Chamber has been turned down as she was not an advocate at the time of death of the original allottee. This is in consonance with Rule 3 of the District Rules, Karkardooma Lawyers’ Chamber (Allotment and Occupancy) Rules, 1995. In the opinion of the Court, the fact that the Petitioner had applied for securing a law degree prior to date of death of the allottee would not, in any way, carve out an exception to Rule 3. In fact, as pointed out by Mr. Satyakam, this precise question has been considered by this Court in ***Kamini Asthana v. The Principles District and Sessions Judge East District Karkardooma***³, wherein the Court observed as follows:

“6. Rule 3 of the aforesaid Rules, 1995 provides that only advocates practicing in the District Courts Shahdara, who are the members of Shahdara Bar Association and who are permanent residents of the National Capital Territory of Delhi, shall be considered eligible for allotment of chambers as per criteria laid down by the District & Sessions Judge, Delhi in consultation with the Allotment Committee, from time to time.

7. Rule 5 of the said Rules reads as under:

³ Order dated 16th October, 2023 in W.P.(C) 15010/2022



“5. Notwithstanding anything contained in Rule 4, the District & Sessions Judge, Delhi in consultation with the Allotment Committee may make out of turn allotment to Senior Advocates, to advocates who are retired Judicial Officers from Delhi and deserving provided they are otherwise eligible.

a. Notwithstanding anything contained in Rules 4 or 5, out of the eligible advocates, father/mother and son/sons/daughters) or husband and wife would be eligible for allotment of only one chamber.

(Amended vide High Court letter No. 15841/P&P/P-1/DHC dated 26.9.95)

b. No eligible advocate shall be allotted more than one chamber and no advocate, though otherwise eligible, may be allotted a chamber whose father/mother/sons/daughters or whose husband/wife is an allottee of lawyers chamber in the Supreme Court, the High Court of Delhi or at the Tis Hazari Court or Patiala House Court Complex. In case decision of the District & Sessions Judge shall be final.

Provided that the District & Sessions Judge, Delhi may, in consultation with the Allotment Committee, in exceptional circumstances, allot a chamber to an advocate otherwise eligible under Rule 3 whose father/mother/son/ daughter or whose husband or wife (as the case may be) is an allottee/ joint allottee of a chamber in any court complex in Delhi.

(Amended vide letter No. __II/Sub. Courts/22.3.97)

(Provided further that in the event of the death of an allottee/joint allottee of a chamber, the father/mother/son/daughter or husband/or wife (as the case may be may be) of the deceased allottee shall, if otherwise eligible under Rule 3, be entitled to allotment/joint allotment of the same chamber in place of the deceased allottee).



c. Where more than one eligible advocates have formed a partnership firm of advocates, they may be allotted only one chamber and joint allottees. Provided always that the District & Sessions Judge, Delhi in consultation with the Allotment Committee, may in appropriate cases, release the bar contained in clauses (a) (b) (c) above in case of otherwise eligible advocates.”

8. Rule 5(b) of the aforesaid Rules, 1995 provides that in exceptional circumstances, the Allotment Committee can allot a chamber to an advocate who is otherwise eligible under Rule 3, whose father/mother/son/ daughter or whose husband or wife (as the case may be) is an allottee of a chamber in any court complex in Delhi has passed away.

9. A perusal of the said rules indicates that for being eligible to be allotted a chamber, the applicant must be an Advocate on the date when father/mother/son/ daughter or whose husband or wife (as the case may be) passes away. In the present case, the Petitioner does not fulfil such condition as she enrolled with the Bar Council only after the demise of her father.”

8. In light of the aforementioned observations, it emerges that it is mandatory for an applicant to be enrolled as an advocate *on the date* when the original allottee deceased. In the present case, the Petitioner did not meet this eligibility requirement, since she only enrolled with the Bar Council subsequent to her husband’s unfortunate demise. Therefore, she was not eligible for allotment or transfer of the Chamber in her name. Consequently, the Court finds no infirmity with the decision rendered in the Impugned Order.

9. Furthermore, in the Court’s opinion, the delay in deciding the Petitioner’s application cannot serve as a valid basis for an argument of prejudice. Over the last two years, the Petitioner has benefitted from the use of the chamber in establishing her practice, thereby receiving some relief as opposed to facing immediate eviction. Thus, this argument does not hold



merit and cannot be used to challenge the legality of the Respondent's decision.

10. In view of the foregoing, although the Court sympathises with the Petitioner's circumstances, it finds no room to make an accommodation for the Petitioner, and accordingly, the present petition is dismissed.

11. Having regard to the facts and circumstances of the case, three months' time is granted to the Petitioner to vacate the Chamber, subject to Petitioner filing an undertaking with this Court that she would vacate the Chamber on or before expiry of three months from today, and not induct any other persons in the Chamber or create any third party rights therein. The Petitioner shall also file an undertaking that she shall also ensure all outstanding payments for use and allotment shall be cleared prior to the Petitioner vacating the Chamber.

12. With the above directions, the present petition is disposed of, along with pending application.

SANJEEV NARULA, J

SEPTEMBER 24, 2024/d.negi