



2025:DHC:821-DB



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

+ LPA 88/2025, CM APPLs. 6800/2025, 6801/2025, 6802/2025 & 6803/2025

JAGDISH YADAV

.....Appellant

Through: Mr. Gautam Narayan, Sr.
Advocate with Mr. Abhishek
Sandillya and Mr. Tushar Nair,
Advocate.

versus

NEW DELHI MUNICIPAL COUNCIL

...Respondent

Through: Mr. Dhruv Mohan, ASC with
Ms. Tarana Khan and Ms.
Anannya Kohli, Advocates for
NDMC.

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*Date of Decision: 4th February, 2025***CORAM:****HON'BLE THE CHIEF JUSTICE****HON'BLE MR. JUSTICE TUSHAR RAO GEDELA****JUDGEMENT****TUSHAR RAO GEDELA, J : (ORAL)****CM APPL 6800/2025**

1. Cause shown is sufficient. Accordingly, the application is allowed.
Delay of 74 days in filing the appeal is condoned.

2. The application stands disposed of.

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3. Present appeal has been filed under Clause X of the Letters Patent Act, 1866 assailing the impugned judgement dated 19.11.2024 passed by

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the learned Single Judge in the writ petition being W.P.(C) 9410/2024 titled *Jagdish Yadav vs. New Delhi Municipal Council* filed by the appellant to the extent that the prayer to grant possession of Shop No.8, AIIMS Subway (Old Shop No.4, AIIMS) was refused. It further seeks directions to the respondent/NDMC to handover the possession of the subject shop; to execute the License Deed with the appellant; and to raise fresh demand towards monthly license fee from the date of handing over the possession of the subject shop.

4. It is the case of the appellant that the respondent/NDMC invited bids for allotment of a number of vacant shops/units in the NDMC area by way of an Open Bid Notice issued in the year 2014. The appellant submitted his bid on 12.01.2014 and emerged as the successful bidder for the subject shop and consequently, was issued an allotment letter on 14.03.2014. It is stated that the allotment letter was subject to various conditions, including with regard to payment of license fee, deposit of security deposit and payment of advance license fee.

5. The appellant claims to have completed all the formalities, yet was not handed over possession of the subject shop. It is stated that the appellant made several personal visits to the respondent's office and submitted request letters dated 11.08.2016, 30.07.2019 and 24.05.2024 to the respondent for handing over of the subject shop, however no response was received.

6. It is further stated that due to non-response of the respondent/NDMC, the appellant was compelled to move an RTI Application bearing No.NDMC/R/2024/60537. In the month of June, 2024, when the appellant visited the office of the respondent/NDMC to



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enquire about the status of his RTI application and his representation dated 24.05.2024, he was informed by the respondent officials that a demand for arrears of license fee and current license fee to the tune of Rs.2,79,53,150/- had been raised *vide* bill dated 05.06.2024.

7. Aggrieved by this, the appellant preferred the underlying writ petition praying for possession of the subject shop and quashing of the demand raised by the respondent. The respondent/NDMC had contended in its counter affidavit filed before the learned Single Judge that it was the appellant who did not come to take possession of the subject shop despite issuance of a possession letter dated 17.04.2014. The respondent/NDMC therefore claimed that it is entitled to levy the license fee for the entire period.

8. After hearing the parties, the learned Single Judge partly allowed the underlying writ petition restraining the respondent/NDMC from enforcing the demand for license fee imposed upon the appellant in respect of the subject shop, as the possession of the subject shop was never handed over to the appellant. However, learned Single Judge, after noting the delay on the part of the appellant for taking legal recourse, refused the relief of handing over of the possession of the subject shop and executing a License Deed, so prayed for by the appellant.

9. Mr. Gautam Narayan, learned senior counsel for the appellant fairly states that the appellant is not challenging that part of the impugned order whereby learned Single Judge has restrained the respondent from enforcing the demand for license fee imposed upon the appellant in respect of the shop. His entire emphasis is predicated on the refusal of the learned Single Judge from a direction to the respondent to



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handover the possession of Shop no.8, AIIMS Sub-way (Old Shop no.4, AIIMS).

10. Learned senior counsel fairly states that though the underlying writ petition was preferred belatedly, yet seeks to explain the same by relying upon the representations dated 11.08.2016, 30.07.2019 and 24.05.2024 to state that since the appellant diligently followed up his case with the respondent but on account of lack of response, the appellant was constrained to file the underlying writ petition. According to him, the triggering point for preferring the underlying writ petition was the demand notice dated 05.06.2024 issued by the respondent in respect of arrears of license fee and current license fee etc. to the tune of Rs.2,79,53,150/-. He states that since the appellant was admittedly never handed over possession, the question of payment of arrears of license fee etc., do not arise. It was only upon receipt of the said demand notice that the appellant filed the underlying writ petition.

11. With respect to the prayer seeking possession of the subject shop, learned senior counsel states that the possession letter, purported to have been issued on 17.04.2014, was never furnished nor was the possession ever offered to the appellant. In that context, learned senior counsel states that the right of the appellant to possession of the subject shop has never been disputed nor denied by the respondent. In order to substantiate this argument, learned senior counsel also states that there is a clause for renewal of the license after the expiry of the tenure of ten financial years as per the original bid notice. He emphasizes that where the appellant has never been handed over the possession, (a) the period of ten years ought to be reckoned from the date the possession is handed



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over to the appellant; or (b) the appellant be put in possession by renewing such license for a further period as prescribed in the bid document.

12. In short, the submission of Mr. Narayan, learned senior counsel is that either on account of (a) or (b) above, the appellant has a right to be put in possession of the subject shop for which the appellant is prepared and willing to pay the requisite license fees as applicable post such handing over of the possession.

13. Learned senior counsel contends that delay in approaching the Court cannot be held to be fatal in every case, and particularly where the State itself has failed in its obligations towards the citizens, the Writ Court ought to have entertained the underlying writ petition. He states that the shop in question is lying locked and has been unoccupied till date and has not been allotted to any third party. He contends that no prejudice of any nature whatsoever would be caused to the respondent in case the same is handed over to the appellant on requisite terms and conditions. He states that keeping in view that it is the appellant's source of livelihood for which he has been deprived for almost a decade, this Court may consider the case of the appellant sympathetically and pass appropriate orders in his favour.

14. In so far as the issue of delay and laches is concerned, learned senior counsel places reliance on the judgments of the Supreme Court in ***Chairman, State Bank of India & Anr. vs. M.J. James, (2022) 2 SCC 301*** and ***Ram Autar Singh Yadav vs. The State of Uttar Pradesh & Ors., Civil Appeal No. 13806/2024*** decided on 04.12.2024.

15. Though the appeal was argued passionately by Mr. Narayan,



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learned senior counsel for the appellant, we are unfazed and find no merit in the appeal.

16. Since the appeal is preferred in a narrow compass in respect of refusal of the learned Single Judge to grant the relief of possession of the shop in question to the appellant, we would also detain ourselves only to examine this aspect.

17. Undisputedly, the allotment letter was issued to the appellant on 14.03.2014 stipulating various conditions. Though the appellant claims to have completed all formalities, he states that possession was never handed over to him. As per the version of the appellant, by representations dated 11.08.2016, 30.07.2019 and 24.05.2024 the appellant sought possession of the shop in question from the respondent. It is the admitted case of the appellant that though he submitted various representations, yet the appellant never approached the Court of law for redressal of his grievances. It appears to us that for some reason, the appellant was not serious in agitating his rights/claim before any superior authority of the respondent nor did he approach the Courts of law for such purpose. The cause sought to be so passionately put forth by the learned senior counsel for the appellant does not constitute “*sufficient cause*” for not having sought redressal of his grievances in time.

18. Non-allocation of the subject shop by the respondent to any third party by itself would not give rise to any cause of action in favour of the appellant. Moreover, the appellant permitted substantial time to lapse. It is pertinent to note that the initial offer of allotment was for a period of ten years with a renewal clause thereafter, subject to the discretion of the lessor/respondent. The appellant let the period lapse without legal



recourse. We do not find any reasons, much less a sufficient cause which prevented the appellant from taking legal recourse to redress his grievances in accordance with law. It is trite that multiple representations to an authority do not extend limitation in the classic sense. The claim is thus, not only hopelessly belated but stale by now. Thus, on that count too, we are not persuaded by the arguments put forth on behalf of the appellant.

19. So far as the argument regarding being put back in possession on the strength of a renewal clause, the same is fallacious. This is for the reason that the renewal would only follow an actual possession taken in accordance with the original allotment letter. When the former act did not complete, the latter act cannot be countenanced. Thus, the said argument too is unmerited.

20. We have also considered the ratio laid down by the Supreme Court in *M.J. James (supra) & Ram Autar Singh Yadav (supra)*. In *Ram Autar Singh Yadav (supra)*, the Supreme Court was considering a case where the appellant therein as Sub Inspector of Police had, on 13.03.1986 thwarted a daring attempt by dacoits intending to commit dacoity on the passengers travelling in a bus by using his service revolver to fire back at those dacoits and successfully shooting a dreaded dacoit who succumbed to gun-shot. Though the Superintendent of Police recommended the name of the appellant for President's Gallantry Police medal to the DIG of Police, however nothing transpired thereafter. After having superannuated, the appellant approached the Public Service Tribunal at Lucknow. The said claim petition was dismissed by the Tribunal. Thereafter, the appellant therein continued pursuing the matter



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before the State Authorities. Since no action was being taken by the authorities, the appellant therein filed a writ petition before the High Court of Allahabad which too was dismissed by learned Single Judge on 04.08.2023. A Special Leave Petition was filed and entertained by the Supreme Court. During the pendency, on account of various orders having been passed, the State Government granted Commendation and a Citation upon the appellant. On account of the Supreme Court viewing the same in a poor light, the State Government released a sum of Rs.1 Lakh as a reward in favour of the appellant therein. Observing that the award itself was insufficient in the context of the brave and valiant act of the appellant therein, the Supreme Court considered the SLP on merits including the huge delay in approaching the High Court. Ultimately, the Supreme Court enhanced the reward. It was in that context that the Supreme Court having regard to the delay in such circumstances recorded its observations in respect of condonation of delay in approaching the High Court on the allegation of breach of fundamental rights by the State. However, in the present case, we find that despite the allotment letter having been granted to the appellant barring submission of multiple representations, the appellant did not take any step to agitate his claim before a Court of Law. Apparently, he let time intervene on account of his sheer negligence. Thus, on the facts of this case, we do not find any merit in the explanation submitted and the ratio in ***Ram Autar Singh Yadav*** (*supra*) inapplicable.

21. So far as the case of ***MJ James*** (*supra*) is concerned, we find that the respondent therein was dismissed from service of the Bank of Cochin which was later on merged with the State Bank of India and had

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belatedly, after a delay of four years, filed an appeal before the statutory Appellate Authority. The said appeal was also not disposed of for a period of nine years. It was only by an order of High Court of Kerala dated 14.10.1998 that a direction was passed to the Chief General Manager (CGM) to dispose of the appeal. It was on such order that the CGM dismissed the appeal of the respondent therein on merits. The said dismissal was challenged by the respondent therein before the High Court of Kerala whereby the learned Single Judge allowed the writ petition on the ground that the inquiry officer had wrongly rejected the request to be defended/represented by the Organising Secretary of the bank organization. The intra court appeal filed by the SBI was dismissed. In the appeal filed by SBI, while examining plethora of judgments, the Supreme Court examined the case on its merit in detail and on the issue of delay in having filed the appeal by the respondent therein before the statutory Appellate Authority. In para nos.36, 41 and 42, the Supreme Court had, after carefully examining the delay and laches, concluded that the Courts could always refuse to grant relief to a litigant if it considers that grant of relief is likely to cause substantial hardship or substantial prejudice to the opposite side or would be detrimental to good administration. Edified on the above, the Supreme Court had actually allowed the appeal of the SBI and quashed the judgment impugned therein and upheld the dismissal order of the respondent therein.

22. In the present case, we find from the records that the appellant was utterly negligent and lackadaisical in respect of his own rights and grievances and despite the fact that an allotment letter was issued on 14.03.2014, coupled with the claim that all formalities were completed



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by the appellant in time, kept blissfully and delightfully silent till the passage of ten years before filing the underlying writ petition. Thus, we do not find any reason to interfere with the impugned judgement.

23. In view of the above observations, the present appeal, alongwith the pending applications, is dismissed.

TUSHAR RAO GEDELA, J

DEVENDRA KUMAR UPADHYAYA, CJ

FEBRUARY 4, 2025/rl