



2025:DHC:449



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

Date of Decision: 24.01.2025

+ **RC.REV. 142/2024, CM APPLs. 29926/2024, 65682/2024**

SH AM IT KUMAR

.....Petitioner

Through: Mr. Varun Dhingra, Advocate

versus

MS SHILPA GHOSH & ANR.

.....Respondents

Through: Mr. K.N Singh, Advocate along with
Respondent No. 2 in person

CORAM:

HON'BLE MS. JUSTICE TARA VITASTA GANJU

TARA VITASTA GANJU, J.: (Oral)

CM APPL. 65682/2024*[Application for affixation of use and occupation charges]*

1. This is an Application filed on behalf of the Respondents/landlords seeking affixation of use and occupation charges.
2. Notice in the Application was issued by this Court on 11.10.2024, when time was granted to the Petitioner/tenant to file a Reply. On that date, the parties were also directed to file lease deeds, documents/photographs etc. in support of their respective contentions *qua* use and occupation charges. The matter was thereafter listed on 12.12.2024 as well as on 23.01.2025.
3. In view of the fact that the Petitioner/tenant has not filed any reply nor any documents despite opportunity given, this Court deems it apposite to decide the aforesaid Application based on the documents filed by the



Respondents/landlords.

4. Learned Counsel appearing on behalf of the Respondents/landlords submits that the subject premises is a shop in a residential area admeasuring 35 sq. yards approximately described as one big hall on ground floor of the property bearing A-94, (Part) Near Shiv Mandir, Shastri Nagar, New Delhi-110052 [hereinafter referred to as “subject premises”]. He further submits that the subject premises is situated in an unauthorized colony. However, it is contended that the Petitioner/tenant is using the subject premises for commercial purposes.

4.1 Learned Counsel appearing on behalf of the Respondents/landlords further submits that the subject building is in a good condition and that the Respondents/landlords is residing on the first floor

4.2 Learned Counsel appearing on behalf of the Respondents/landlords seeks to rely upon two lease deeds dated 18.01.2023 and 09.01.2023 of the properties situated in the same locality. The details of the two lease deeds are as follows:

Lease deed dated 18.01.2023

Nature	Ground Floor
Use	Commercial
Area	Not mentioned
Rent	Rs.29,000/- per month
Description/details	Ground Floor without roof rights, only portion of freehold built-up property bearing municipal No. B-1274, Block-B, situated at Shastri Nagar, Delhi-110052



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**Lease deed dated 09.01.2023**

Nature	First floor
Use	Residential
Area	75 sq. yards
Rent	Rs.15,000/- per month
Description/details	Entire First Floor without roof rights of portion of freehold built-up property mearing Municipal No. A-547 along with one car parking rights in the stilt situated at Shastri Nagar, Delhi-110052

4.3 Learned Counsel appearing on behalf of the Respondents/landlords while relying on the aforesaid lease deeds, submits that the rental for the subject premises should be in the range of Rs. 15,000/- per month to Rs. 20,000/- per month.

5. Learned Counsel appearing on behalf of the Petitioner/tenant, on the other hand, on instructions, submits that the subject premises is not situated in the main road but is on an inner colony road. He, however, submits that the road in front of the subject premises is approximately 30 ft. wide. He also submits that the subject premises is being used for the purposes of storing cloth material as a godown.

6. In view of the fact that the subject premises is a large area – 35 sq. yards or 315 sq. ft and being used for the commercial purposes and the road in front of the subject premises is 30 sq. ft which in a small colony is a large size, this Court deems it apposite to fix user and occupation charges at Rs. 15,000/- per month for the present for subject premises.

7. Accordingly, without prejudice to the rights and contentions of the parties, the following directions are passed:



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(i) The user and occupation charges for the period commencing from 15.08.2024 to 31.01.2025 shall be paid by the Petitioner/tenant at the rate of Rs. 15,000/- per month on or before 28.02.2025.

(ii) The user and occupation charges from 01.02.2025 onwards, shall be paid by the Petitioner/tenant at the rate of Rs.15,000/- per month, on or before 7th day of each calendar month;

8. All payments shall be made into the bank account of the Respondents/landlords. The details of the bank account shall be provided by the learned Counsel for the Respondents/landlords to the learned Counsel for the Petitioner/tenant on his email address within three days.

9. It is clarified that the use and occupation charges as affixed hereinabove are subject to the final outcome of the present Petition.

10. Subject to the payment of user and occupation charges by the Petitioner/tenant, the interim protection granted by this Court on 09.08.2024 shall continue till the next date of hearing.

11. In the event that there is any default in the payment of use and occupation charges on behalf of the Petitioner, interim protection as granted by this Court on 09.08.2024 shall automatically stand dissolved.

12. The Application is, accordingly, disposed of.

RC.REV. 142/2024, CM APPLs. 29926/2024/Stay]

13. The parties seek and are granted time to file their respective written synopsis, not exceeding three pages each, at least one week before the next date of hearing, along with the compilation of judgments, if any, they wish to rely upon.

13.1 All judgments sought to be relied upon shall be filed with an index which also sets out the relevant paragraph numbers and the proposition of



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law that it sets forth.

14. List on 26.05.2025.

TARA VITASTA GANJU, J

JANUARY 24, 2025/g.joshi

Click here to check corrigendum, if any