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IN THE HIGH COURT OF DELHI AT NEW DELHI***Reserved on: 11th May, 2026******Pronounced on: 16th July, 2026***

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W.P.(C) 4398/2023 & CM APPL. 55928/2024 (Delay)

RATINDER NATH ABROL

.....Petitioner

Through: Mr. Pushkar Sood, Adv.

versus

NEW DELHI MUNICIPAL COUNCIL

.....Respondent

Through: Mr. Ashish Tiwari, ASC with Mr.
Anurag Tiwari, Mr. Sahib Patel, Advs.
for NDMC.**CORAM:****HON'BLE MR. JUSTICE AMIT SHARMA****JUDGMENT****AMIT SHARMA, J.**

1. The present petition under Article 226 read with Article 227 of the Constitution of India seeks the following prayers:-

“a. Pass appropriate orders/directions, quashing/ setting aside the impugned order dated 23.03.2023, passed by the Court of Sh. Dharmesh Sharma, Principal District & Session Judge, South-District, New Delhi in PPA No -15 of 2020, titled as Ratinder Nath Abrol vs New Delhi Municipal Council;

b. Pass appropriate orders/directions, quashing/ setting aside the impugned order dated 18.8.2020 of the learned Estate Officer passed in Case No.36/107/08/EO;

c. Pass appropriate orders/ directions calling for the records of PPA No -15 of 2020, Principal District & Session Judge, South-District, New Delhi and record of proceedings before the learned Estate Officer, NDMC in Case No.36/107/08/EO;



Pass such other order or orders as this Hon'ble Court may deem fit and proper in the facts and circumstances of the case and in the interest of justice.”

2. The petitioner is stated to be the original allottee of property bearing No. G-19, Palika Bhawan, R.K. Puram, New Delhi, by way of a licence deed/agreement dated 18.08.1984. The said licence deed was executed between the petitioner and respondent for a period of five years in favour of the petitioner for the purpose of running his business. It is the case of the petitioner that the licence fee was fixed at Rs. 5733/- per month and the deed/agreement had come into effect on 26.06.1984. The said licence period was extended in 1989 for a period of five years, i.e., up to 06.07.1994. In 1994, the licence agreement was further renewed with enhancement of 15%, however, it was renewed @ 25% in the year 1994 w.e.f. 07.07.1994 up to 06.07.1999. It is the case of the petitioner that being aggrieved by the wrong enhancement fees, he made a representation to the respondent to carry out necessary correction. After several rounds of communication and meetings, with the concerned officer of the respondent, it is submitted on behalf of the petitioner that Chairman of the NDMC had orally and in writing directed the Assistant Director (Estate) of the respondent to correct the mistake in previous files *vide* a letter dated 14.02.2005, whereby the petitioner was directed to deposit the entire arrears of licence fee calculated @ 15 % per annum by 28.02.2005. The petitioner, as per his claim, has stated that he had informed the respondent *vide* a letter dated 28.02.2005 stating that he had already deposited the said amount of Rs. 2,48,540/- as per the direction of the Chairperson, NDMC. It is the case of the petitioner that, despite making



payment of the entire outstanding dues towards the licence fee, the respondent did not remove the interest component on the outstanding licence fee and kept on charging interest on the said outstanding amount despite the competent authority having rectified a mistake of enhancement charge @ 25% per annum and reducing it to 15% per annum. The respondent thereafter issued a show cause notice dated 09.10.2006, which was followed by cancellation notice dated 20.06.2007, whereby the allotment of the shop was cancelled on account of non-payment of outstanding dues up to April, 2007.

3. Thereafter, the respondent filed an eviction petition against the petitioner in May, 2008. *Vide* order dated 18.08.2020, the learned Estate Officer directed the petitioner to evict the subject property. The said order was challenged by way of an appeal, under Section 9 of The Public Premises (Eviction of unauthorised Occupants) Act, 1971 (hereinafter referred to as 'PP Act'). The said appeal was dismissed by learned Principal District & Sessions Judge, New Delhi, *vide* impugned order dated 23.03.2023.

SUBMISSIONS ON BEHALF OF THE PETITIONER

4. Learned counsel appearing on behalf of the petitioner had submitted that the proceedings initiated before the learned Estate Officer under the PP Act were in violation of the principles of natural justice. It was submitted by the learned counsel for the petitioner that it is well settled law, that before initiating proceeding under the PP Act, prior notice under Section 4 of the said Act ought to have been issued to the petitioner before initiating proceedings under the said Act. Attention of this Court was drawn to show cause notice dated 09.10.2006 issued by the respondent to submit that respondents had already declared the petitioner as an unauthorised occupant



even before the Estate Officer issued a notice under Section 4 of the PP Act. Similarly, attention of this Court was drawn to communication dated 20.06.2007, whereby the respondent informed the petitioner about the cancellation of the allotment and withdrawal of the licence of the subject property and further stated that the occupation of the said premises after the aforesaid cancellation is unauthorised and thus, the petitioner was liable to be evicted from the public premises. It is submitted that, on the basis of such communication, the respondent preferred the petition under Section 5 and 7 of the PP Act seeking eviction. Reliance was placed on the judgment of **Bhagat Singh vs. DDA**, passed by the learned Single Judge of this Court in W.P.(C) 364/74 dated 28.10.1987 in particular the following portion:-

“It is, indeed, not disputed that it was mandatory requirement of law that a notice under Section 4 must be served before taking any proceeding under Section 5 of the Act. Mere fact that the petitioner assumed that the notice under Section 4 pertained to the premises in his occupation would not validate the notice if notice per se is bad. In *Amulya Chandra Sutradhar & Another v. Estate Officer*, AIR 1964 Tripura 9(1), a similar question arose for decision and it was held by the learned Judicial Commissioner that when proceedings are to be taken under the Public Premises (Eviction of Unauthorised Occupants) Act, 1958, the public premises in respect of which action is going to be taken must be ascertained by the Estate Officer and the first notice under Section 4(1) must clearly mention in respect of what public premises the eviction proceedings are being taken.”

5. It is submitted that no notice under Section 4 of the PP Act was given to the petitioner. Similarly, reliance is placed on judgment rendered in **Ganesh Bai vs. Union of India, 2005 (83) DRJ 1**, wherein it has been held



that the Estate Officer is required follow the procedure prescribed under the PP Act and, therefore, the notice under Section 4 of the said Act has to be given.

6. Learned counsel appearing on behalf of the petitioner further submitted that *vide* letter dated 14.02.2005, the respondent had intimated the petitioner in the following manner:-

“With reference to the hearing given on 28.01.05 by the Chairperson. I am directed to inform that you have been permitted to deposit the entire arrear of licence fee calculated without interest@ 15/- latest by 28th Feb'05. If the entire arrear of licence fee is cleared by the above mentioned date, then the issue of interest due will be reconsidered. However, in case of any outstanding due on account of the principal amount i.e. arrear of licence fee after the above mentioned date i.e . 28.2.2005 the licence would be cancelled without any further reference.”

7. It is submitted that the petitioner had deposited a cheque of Rs. 1,88,540/- on 21.02.2005, and thereafter, the attention of this Court was drawn to the order dated 10.04.2023 passed by learned Predecessor Bench of this Court, whereby the operation of the impugned order was stayed, subject to the petitioner depositing a sum of Rs. 12 lakhs, which was accordingly deposited. It is further submitted that in pursuance of the order dated 06.03.2024, NDMC has placed on record provisional statement of account in respect of subject premises which reads as under:-



“

PROV. STATEMENT OF ACCOUNT IN R/O SHOP NO. G-19, PALIKA BHAWAN, NEW DELHI (EPID 0002267)	
(ABSTRACT)	
Particulars	Amount (Rs)
opening balance taken from letter issue by Chairman, NDMC on 28.01.2005.	282
Add :- Current Month License Fees w.e.f 01-March-2005 to 31-March-2024	2715649
Add :- Surcharge w.e.f 01-March-2005 to 31-March-2024	131130
Add :- Sanitation/Maintenance/Loft Charges, if any	0
Add :- Bank Charges	0
TOTAL (B)	2847061
Less :-Payment (License Fees) received w.e.f. 01-March-2005 to 31-March-2024	842168
Less :- Rebate allowed w.e.f. 01-March-2005 to 31-March-2024 (ar per D&C and Billing software or which ever is lesser as per demand)	0
Less :- Bank Charges	0
CLOSING BALANCE as on 31-March-2024 (C)	2004893
Interest on License Fees charged up to 31-March-2024	3028560
Less :- Interest Paid	0
Balance of Interest as on 31-March-2024 (D)	3028560
Service Tax w.e.f 01-September-2015 to June, 2017	42737
Less :- Service Tax already paid	42737
BALANCE OF SERVICE TAX as on 31-March-2024 (E)	0
GST (SGST + CGST) w.e.f July-2017 to 31-March-2024	221802
Less :- GST (SGST + CGST) paid	221802
BALANCE OF GST (SGST + CGST) as on 31-March-2024 (F)	0
Interest due on Service Tax	87926
Less :- Interest paid on Service Tax	87926
BALANCE OF INTEREST on SERVICE TAX as on 31-March-2024 (G)	0
Interest due on GST	105367
Less :-Interest Paid on GST (SGST + CGST)	105367
Balance of Interest on GST (SGST + CGST) as on 31-March-2024 (H)	0
NET OUTSTANDING/EXCESS DUES UPTO 31-March-2024 (C+D+E+F+G+H)	5033453
SOA has been prepared as per direction of Hon'ble Court order dated 06.03.2024 in W.P.(C) 4398/2023 to respondent i.e. NDMC to place on record rectified statement of account in terms with order dated 10.04.2023 within two weeks	

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Thereafter, the petitioner placed on record a calculation sheet, as per which only a sum of Rs. 2,30,194/- was due towards the licence fee, computed in the following manner:-



AMOUNT BREAKUP - R.N. ABROL – LICENSE FEE

- Last payment of monthly license fee paid on : **March, 2005**
- Last undisputed License Fee : **Rs. 6,169/-** (Six Thousand One Hundred Sixty-Nine only)
- Total number of months between March, 2005 and November, 2025 (excluding March, 2005 and including November, 2025) comes up to **248 months**.
- **Total License Fee due** : Rs. 15,29,912/- (Fifteen Lakhs Twenty-Nine Thousand Nine Hundred Twelve only) : 6169 x 248
- **Amount already Paid:-**
 - i. Rs. 80,000/- (Eighty Thousand only) on 21.07.2007.
 - ii. Rs. 20,000/- (Twenty Thousand only) on 18.09.2007.
 - iii. Rs. 5,00,000/- (Five Lakhs only) on 30.06.2023.
 - iv. Rs. 7,00,000/- (Seven Lakhs only) on 13.03.2024.

Total : Rs. 13,00,000/- (Thirteen Lakhs only)

- **Amount Due** : 15,29,912 – 13,00,000 + 282 (Balance of March, 2005)

Total : Rs. 2,30,194/- (Two Lakhs Thirty Thousand One Hundred Ninety Four only)

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8. The aforesaid amount of Rs. 2,30,194.00/- was handed over to the learned counsel for the respondent/New Delhi Municipal Council (NDMC), as recorded in the order dated 27.11.2025 passed by the Predecessor Bench of this Court in the present proceedings.

SUBMISSION ON BEHLAF OF THE RESPONDENT

9. Learned counsel appearing on behalf of the respondent submits that the due procedure prescribed under PP Act was duly followed by the Estate Officer. It is submitted that the petitioner will be in an unauthorised occupation only upon cancellation of the licence, which was done *vide* communication dated 20.06.2007. It was further pointed out that petitioner never challenged the said cancellation. Attention of this Court was drawn to notice issued under Section 4 (1) of the PP Act issued to the petitioner on 24.03.2008 by the Estate Officer which reads as under:-



(40)

OFFICE OF THE ESTATE OFFICER, N.D.M.C.
PALIKA KENDRA: NEW DELHI

Notice under section (I) of section 4 of the Public Premises (Eviction of Unauthorized Occupants) Act, 1971.

Case No.36/107/08/EO

Dated: 24/3/2008

To

Sh.R.N. Abrol,

1. R/O C-116, Defence Colony,
New Delhi-24.

2. In R/O shop No.G-19, Palika Bhawan, R.K. Puram,
New Delhi.

Whereas I, the undersigned, am of the opinion on the ground specified below that you are in unauthorized occupation of the public premises mentioned in the schedule below and that you should be evicted from the said premises.

GROUND

That the Licence granted in your favour has been cancelled by the Chairman NDMC w.e.f. 18/6/2007 on account of non-payment of licence fee regularly. Thereafter your status in the said premises is thus became that of unauthorized occupants.

Now, therefore, in pursuance of Sub-Section (I) of section 4 of the Act, I hereby called upon you to show cause on 10/4/2008 at 2.30 p.m. as to why such an order of eviction should not be made.

And in pursuance of clause (b) (II) of Sub-Section-2 of Section-4, I also call upon you to appear before me in person or through a duly authorized representative capable to answer all material question connected with the matter along with the evidence which you intend to produce in support of the show cause on 10/4/2008 at 2.30 p.m. for personal hearing. In case, you fail to appear on the said date and time, the case will be decided ex-parte.

SCHEDULE

Shop No.G-19, Palika Bhawan, R.K. Puram, New Delhi.

(ESTATE OFFICER)

Copy to: - Petitioner, NDMC through
Director (Estate)





10. It is pointed out that the said show cause notice was issued only after the complaint under Section 5 was filed before the learned Estate Officer. It is the submission of the learned counsel for the respondent that the show cause notice under Section 4 (1) of the PP Act will only follow after the filing of the complaint by the respondent under Section 5 of the Act. Attention of this Court was drawn to the relevant portion of the eviction order dated 18.08.2020 passed by the Estate Officer, which reads as under:-

“18. Therefore, after considering all the facts and submission made by both the parties, this Court holds that the cancellation of the license deed *vide* order dated 18.06.2007 was made in justified manner and as per the terms and condition of the license deed. The licence was also expired on 06.07.1999. It is stand proved that after the cancellation of the shop in question i.e. 18.06.2007, the Respondent has become the unauthorized occupant of the said public premises and liable to vacate the handover the peaceful possession of the said public premises to the Petitioner.

19. Accordingly, Petition filed under Section 5 and 7 of the PP Act is disposed off with the direction as under:-

(i) Respondent and all other unauthorized occupants shall vacate the Shop No. G-19, Palika Bhawan R.K. Puram, New Delhi within a period of 15 days from the date of issue of this order, failing which the Petitioner will be at liberty to get the property vacated with reasonable force as may be necessary. (ii) Respondent is directed to pay Rs. 26,48,799/- as interim amount calculated upto August, 2017 on account of arrears of licence fee/damages within a period of 30 days of issuance of this order.

(iii) Petitioner is directed to rectify the Statement of Accounts upto date or till vacation of the shop in question, strictly as per



the direction of the then Chairperson, NDMC *vide* order dated 28.01.2005 according to which it was directed to reconsider the issue of interest due in case the Respondent paid the entire dues. As per the record the said amount was deposited by the Respondent. The said revised statement must be supplied to the Respondent within a period of 30 days of issuance of this order and in turn Respondent shall pay the difference amount in next 15 days period, failing which, in pursuance of Section-14 of the Public Premises (Eviction of Unauthorized Occupants) Act, 1971, I, Murari Lal Sharma Estate Officer, authorize the Petitioner to proceed to recover the same as arrears of land revenue in the interest of the Municipal Council.

(iv) Order accordingly. Certified copies of this order be issued to both the parties free of cost.”

11. Learned counsel for the respondent had submitted that the petitioner had continued in occupation of the shop for 13 years without any valid contract and, therefore, legal objection regarding the validity of the proceedings before the learned Estate Officer cannot be accepted.

12. It is further submitted that the aforesaid legal objection regarding the proceedings before the learned Estate Officer was never raised by the petitioner in the proceeding under the PP Act, as well as the appeal under Section 9 of the said Act. It is further submitted that even in the present petition, these grounds have not been taken. Reliance is placed on the judgment of Supreme Court in **Life Insurance Corporation of India vs. Nandini J. Shah & Ors. (2018) 15 Supreme Court Cases 356**, to submit that the petitioner cannot be permitted to raise the issues of non-compliance of Section 4/5 of the PP Act. Reliance was further placed on judgment of the Supreme Court in **Sadhana Lodh vs. National Insurance Co. Ltd. & Anr.**,



(2003) 3 Supreme Court Cases 524, and in particular, the following paragraph:-

“7. The supervisory jurisdiction conferred on the High Courts under Article 227 of the Constitution is confined only to see whether an inferior court or tribunal has proceeded within its parameters and not to correct an error apparent on the face of the record, much less of an error of law. In exercising the supervisory power under Article 227 of the Constitution, the High Court does not act as an appellate court or the tribunal. It is also not permissible to a High Court on a petition filed under Article 227 of the Constitution to review or reweigh the evidence upon which the inferior court or tribunal purports to have passed the order or to correct errors of law in the decision.”

13. Respondent has also placed on record a calculation sheet (without prejudice), according to which the total amount outstanding towards monthly licence fee is Rs. 41,70,799/- and, after adjusting the amount paid by the petitioner, the balance amount due, excluding interest is Rs. 31,11,437/- . The said calculation was handed up in Court and taken on record.

14. Heard learned counsel for the parties and perused the records.

15. At the outset, Section 4 of the PP Act reads as under:-

“4. Issue of notice to show cause against order of eviction.—

[(1) If the estate officer has information that any person is in unauthorized occupation of any public premises and that he should be evicted, the estate officer shall issue in the manner hereinafter provided a notice in writing within seven working days from the date of receipt of the information regarding the unauthorized occupation calling upon the person concerned to show cause why an order of eviction should not be made.]



[(1A) If the estate officer knows or has reasons to believe that any person is in unauthorized occupation of the public premises, then, without prejudice to the provisions of sub-section (1), he shall forthwith issue a notice in writing calling upon the person concerned to show cause why an order of eviction should not be made.]

[(1B) Any delay in issuing a notice referred to in sub-sections (1) and (1A) shall not vitiate the proceedings under this Act.]

(2) The notice shall:

(a) specify the grounds on which the order of eviction is proposed to be made; and

(b) require all persons concerned, that is to say, all persons who are, or may be, in occupation of, or claim interest in, the public premises,

(i) to show cause, if any, against the proposed order on or before such date as is specified in the notice, being a date not [later than] seven days from the date of issue thereof, and

(ii) to appear before the estate officer on the date specified in the notice along with the evidence which they intend to produce in support of the cause shown, and also for personal hearing, if such hearing is desired.]

(3) The estate officer shall cause the notice to be served by having it affixed on the outer door or some other conspicuous part of the public premises, and in such other manner as may be prescribed, whereupon the notice shall be deemed to have been duly given to all persons concerned.”

16. A bare perusal of the aforesaid provision demonstrates that if the learned Estate Officer has information that any person is in unauthorised occupation of any public premises and from which he should be evicted, the Estate Officer shall issue a notice in writing in the manner provided in the said provision under sub-section (2) thereof. It is pertinent to note that Section 1A also empowers the Estate Officer to issue notice in writing to any



person, where he knows or has reasons to believe that any person is in unauthorised occupation of the public premises. Section 5 of the PP Act empowers the Estate Officer for eviction of the unauthorised occupants. This section reads as under:-

“5. Eviction of unauthorized occupants.—[(1) If, after considering the cause, if any, shown by any person in pursuance of a notice under section 4 and any evidence produced by him in support of the same and after personal hearing, if any, given under sub-clause (ii) of clause (b) of sub-section (2) of section 4, the estate officer is satisfied that the public premises are in unauthorized occupation, the estate officer shall make an order of eviction, for reasons to be recorded therein, directing that the public premises shall be vacated, on such date as may be specified in the order but not later than fifteen days from the date of the order, by all persons who may be in occupation thereof or any part thereof, and cause a copy of the order to be affixed on the outer door or some other conspicuous part of the public premises:

Provided that every order under this sub-section shall be made by the estate officer as expeditiously as possible and all endeavour shall be made by him to issue the order within fifteen days of the date specified in the notice under sub-section (1) or sub-section (1A), as the case may be, of section 4.]

(2) If any person refuses or fails to comply with the order of eviction 3 [on or before the date specified in the said order or within fifteen days of the date of its publication under sub-section (1), whichever is later,] the estate officer or any other officer duly authorized by the estate officer in this behalf 4 [may after the date so specified or after the expiry of the period aforesaid, whichever is later, evict that person] from, and take possession of, the public premises and may, for that purpose, use such force as may be necessary.

[Provided that if the estate officer is satisfied, for reasons to be recorded in writing, that there exists any compelling reason which prevents the person from vacating the premises within fifteen days, the estate officer may grant another fifteen days from the date of



expiry of the order under sub-section (1) to the person to vacate the premises.]

17. As noted hereinbefore, that the Estate Officer had issued a show cause dated 30.04.2007 to the petitioner under Section 4 (1) of the PP Act on the basis of an information by way of an application filed by the respondent. Learned counsel for the respondent rightly contended that the information in terms of Section 4 (1) was given to the Estate Officer by way of such application and on the basis of which the proceedings were initiated. Insofar as the aforesaid legal objection with regard to non-issuance of a notice under Section 4 (1) of the PP Act is concerned, this Court finds that the same is not tenable as there was a proper notice issued under the said provision, Consequently, the proceedings initiated before the learned Estate Officer were in accordance with law.

18. It is also well settled law that the jurisdiction of this Court under Article 226 of the Constitution of India, in such circumstances, is limited in nature. The statutory appeal filed by the petitioner under Section 9 of the PP Act has already been dismissed by the learned Principal District & Sessions Judge *vide* the impugned judgment. The scope of this Court is limited to the extent that whether the said impugned order suffers from any legal infirmity or is liable to be interfered with in the interest of justice.



19. The relevant portion of the impugned order is reproduced as below:

“9. Now, it is a settled legal position that the PP Act is a special enactment for eviction of 'unauthorized occupants' from 'public premises' in a summary manner. As per Section 4 of the Act, a notice to show cause against the unauthorised occupant of any public premises is required to be issued by the Ld. Estate Officer. As per Section 5 of the Act, after considering the cause shown and evidence, if any produced by the alleged unauthorised occupant, the Ld. Estate Officer on being satisfied that the person is in unauthorised occupation of the public premises, an eviction order is required to be passed by the Ld. Estate Officer, requiring all persons to vacate the public premises. Unauthorised occupation as per Section 2(g) of the PP Act means "the occupation by any person who has entered into occupation of any premises without lawful authority as well as occupation which was permissive without lawful authority as well as occupation which was permissive at the inception but has ceased to be so". There is no gainsaying that the PP Act has overriding effect in respect of Government land over State laws dealing with tenancy rights, such as the DRC Act.

10. In view of the aforesaid provision of law, reverting to the instant appeal, it is admitted case that the public premises in question i.e. the shop was allotted to the appellant for five years by virtue of license deed dated 18.08.1984, initially @ 5733/- per month w.e.f. 07.07.1984. It is also admitted fact that later on license fee/charges were reduced retrospectively to Rs. 3481/- per month by virtue of supplemental agreement dated 19.01.1993 except that all other terms and conditions of the license deed 18.08.1984 remained intact. Clause (1) of the License Deed dated 18.08.1984 categorically stipulated that license was renewable for another five years subject to increase of rate of license by 15%; and accordingly it is borne out from the record that the license fee w.e.f. 07.07.1989 was @ Rs. 4003/- per month (Rs. 3481 + 15% equal to Rs. 4003.15 Paisa). Further, as per Clause (1) of the supplemental lease deed dated 19.01.1993, it was the sole discretion or prerogative of the Licensor NDMC to extend or to not extend the period of license and *vide* Clause (2) of both the first as well as second supplemental license deed interest @ 15% was liable to be paid on the delayed



license fee.

11. I am afraid the whole plank of the case of the appellant that license fee was got enhanced by 25% per annum instead of 15% per annum is ill-conceived, ill-motivated and an attempt to wriggle out of his liability to pay license fee, which admittedly has not been paid since 26.06.2007. It is clearly brought out from the record that pursuant to concession that was afforded by the then Chairman NDMC leading to issuance of letter dated 28.01.2005, the appellant was permitted to deposit entire arrears of license fee along-with interest @ 15% per annum until January-2005 by February 28, 2005. On fulfilling such condition, the concerned officer was enjoined upon to re-consider the representation by the appellant for reduction, rebate or concession with regard to interest on the accumulated arrears. A bare perusal of the order dated 28.01.2005 shows that there was no issue of wrong enhancement of license fee/charges by 25%.

12. Any how it is also brought out that on being directed, the appellant paid entire principal amount amounting to Rs. 2,48,540/- till January-2005 in two instalments of Rs. 60,000/- on 23.02.2005 and Rs. 1,85,540/- on 02.03.2005. Although much mileage is sought to be drawn from the fact that despite repeated representations by the appellant and even displeasure recorded by the Ld. Estate Officer during the inquiry proceeding, the respondent NDMC failed to produce the corrected/rectified statement of account, and even during the proceedings in the present appeal, the respondent/ NDMC cut a sorry figure on that score. Be that as it may, it is manifest that the after April-2005 even the appellant failed to pay license fee on regular basis or in a timely manner and made payment of Rs. 80,000/- on 21.07.2007 and Rs. 20,000/- on 18.09.2007. In other words, the appellant was not even making payment of principal amount what to talk of interest and it goes without saying that the appellant too has failed to produce any statement of account detailing as to how the license fee should have been calculated, claimed and paid.

13. That being the position, there can be no quarrel that the license/allotment of the shop was rightly and legally revoked by the NDMC w.e.f. 18.06.2007 leading to the filing of the application



under Section 5 and 7 of the PP Act before the NDMC for non-compliance on 24.03.2008. A careful perusal of the original record of the Ld. Estate Officer would show that notice under Section 4 and 7 of the PP Act was duly served upon the appellant who appeared initially through his Counsel Mr. S.K. Dewan and also in person on various dates. It is recorded in the order sheet of 03.10.2022 that the appellant was informed through Sh. Alok Bhatnagar, Senior Assistant there was due amount of Rs. 10,39,594/- till April-2012 bifurcating Rs. 6,57,698/- as principal amount and Rs. 3,81,896/- as interest amount and on the request of the appellant, he was allowed to deposit Rs. 6,57,698/- within seven days but the said order was not complied with. On 17.08.2017 it was recorded that the appellant was ready and willing to make payment of outstanding dues if interest is waived and then the proceedings continued on multiple dates for supplying of statement of account which the department miserably failed to do but then at no stage the appellant had chosen to file his own statement of account and/or pay the mounting arrears with or without prejudice. It is fundamental requirement of law that a person who comes to Court must come with clean hands and this was a stark case where the appellant was taking the entire department as also the Ld. Estate Officer for a ride right merely on the basis of earlier concession dated 28.01.2005. Mr. Nilesh Sawhney, learned Counsel for the respondent rightly urged that the appellant has been occupying the premises in an inequitable manner without making payment of license fee and succeeded in confusing the entire machinery of the NDMC, which of-course is laughable if not unconscionable.

14. All said and done, the order sheets of the proceedings before the Ld. Estate Officer would show that right from 03.05.2008 till 28.08.2019 the department came out with a statement that a sum of Rs. 26,48,799/- had been calculated as outstanding total demand plus interest up to April-2017. The twist in the story is that although the corrected statement of account was not filed, the Ld. Estate Officer on the assurance of the appellant that he was read to make payment towards the admitted amount of license fee, directed him to pay a sum of Rs. 14,81,122/- upto April-2017 within a period of two months *vide* order dated 28.08.2019 . Even the said order was not complied with by the appellant, and therefore, it does not lie in



his mouth to say that the department failed to produce the corrected statement of account. At the cost of repetition, it was the appellant who has been occupying and using the premises all along without payment of license fee since 26.06.2007. The consistent plea by the appellant that the license fee has been enhanced by 25% per annum instead of 15% per annum is also belied from the fact that enhancement of rent was done by the NDMC vide clause (1) of the supplemental agreement. Ld. Counsel for the NDMC placed on record the copy of Resolution No.6 dated 18.03.1999 to the effect that the Council made a decision that annual enhancement in the license fee would be @5% as against 7% proposed earlier. Later, a decision was taken on 30.08.2000 whereby enhancement of license fee on renewal of the license was resolved to be 10% per year and also execution of license deed for ten years. It was further decision of the Council that where the occupiers are failing to pay arrears and/or interest due thereof for the delayed payment, their licenses be cancelled and they can be proceeded with under the PP Act.

15. The sum and substance of the aforesaid discussion is that the appellant for more than 30 years has been occupying the premises in question without making payment of any license fee. At the cost of repetition, despite affording numerous opportunities, the appellant did not even make payment of license fee/charges as per his own understanding without prejudice or otherwise. The plea that the license fee had been enhanced by 25% instead of 15% is not only wrong, misconceived and ill-motivated but also contrary to the terms and conditions of the original license deed dated 18.08.1984 and supplemental agreement dated 19.01.1993 and policy decision taken by the NDMC referred above. It is manifest that the Ld. Estate Officer simply did not apply his mind to the statement of accounts produced by concerned officials of the NDMC and merely went by reckless objections raised by the appellant and now if version of the respondent NDMC is believed, he is in arrears of rent of Rs. 55,69,809/-.

16. In view of the foregoing discussion, I find that there is no infirmity, perversity or illegality committed by the Ld. Estate Officer in passing the impugned directions under Section 5 and 7 of



the PP Act. This Court, therefore, upholds the impugned order dated 18.08.2020 thereby:

(i) directing the appellant to vacate the shop bearing No. G-19, Palika Bhavan, R.K. Puram, New Delhi within a period of 15 days from the date of his order, failing which the NDMC shall be entitled to get the same vacated as per law.

(ii) Further, this Court upholds the interim amount of license fee/user charges to the tune of Rs. 26,48,799/- which NDMC shall be entitled to recover and the appellant is directed to pay towards arrears up to August-2017 within 30 days from today without prejudice.

(iii) Further, in so far as period after September-2017 till date is concerned, the matter is remanded back to the Ld. Estate Officer with directions that he/she shall seek statement of account from the NDMC calculating license fee afresh w.e.f. 01.09.2017 plus yearly enhancement as per market rent prevalent. And/or may consider other parameters for assessment of damages for period of unauthorised occupation of the public premises in terms of Rule 8 of the PP Rules and pass an order afresh towards such user charges/damages for wrongful occupation after affording opportunity to the parties. The present appeal is disposed of accordingly.”

(Emphasis supplied)

20. A perusal of the aforesaid observations by the learned Principal District and Sessions Judge reflects that all the facts and contentions raised on behalf of the petitioner, which has been raised before this Court as well, has been meticulously dealt with, and a finding has been arrived at to hold that the petitioner had been occupying the subject premises without making the payment of licence fee since 20.06.2007. Even the contention raised by the



learned counsel for the petitioner that the licence fee has been enhanced by 25% instead of 15% per annum has also been considered by observing that the said plea was contrary to the terms and conditions of the original licence deed dated 18.08.1984 and supplementary agreement dated 19.01.1993, as well as the policy decision placed on record by the respondent before the learned appellate court.

21. In these circumstances, the learned Principal District and Sessions Judge upheld the order of the learned Estate Officer with respect to vacating the premises and recovery of the interim amount of licence fee/user charges to the tune of Rs. 26,48,799/- up to August, 2017, however, with regard to period after September, 2017 till the date of the order, the matter was remanded back to the learned Estate Officer with a directions that he shall seek statement of account from the NDMC by calculating licence fee afresh w.e.f. 01.09.2017 plus yearly enhancement as per market rent prevalent as noted in para 16 (iii) of the impugned judgment.

22. In these circumstances, this court finds no ground for interference in the impugned judgment dated 23.03.2023. The impugned judgment is upheld. The interim order dated 10.04.2023 stood vacated *vide* order dated 28.10.2025 passed by the learned Predecessor Bench of this Court. The petitioner shall vacate the subject premises in terms of the directions passed by the learned Principal District and Sessions Judge within a period of 15 days from the date of this order.



23. The matter is further remanded back to the Estate Officer with respect to directions given by the learned Principal District and Sessions Judge in para 16 (iii) of the impugned judgment. Needless to state that the amount deposited before this Court along with the interest accrued thereupon will be adjusted in computation by the learned Estate Officer.
24. The petition is dismissed and disposed of.
25. Pending application(s), if any, also stands disposed of.
26. Judgement be uploaded on the website of this Court, *forthwith*.

AMIT SHARMA
(JUDGE)

JULY 16, 2026/nk/ah