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* **IN THE HIGH COURT OF DELHI AT NEW DELHI***Date of Decision: 16th February, 2026**Uploaded on: 17th February, 2026*+ **W.P.(C) 8005/2025 & CM APPL. 35171/2025**

DEVENDRAPetitioner

Through: Mr. N.K. Sahoo, Adv.
versus

NEW-DELHI MUNICIPAL COUNCIL AND ANR.Respondents

Through: Mr. Ashish Tiwari, Additional
Standing Counsel and Mr. Anurag
Tiwari & Mr. Sahib Patel, Advocate**CORAM:****JUSTICE PRATHIBA M. SINGH****JUSTICE MADHU JAIN****Prathiba M. Singh, J. (Oral)**

1. This hearing has been through hybrid mode.
2. The present petition has been filed by the Petitioner- Mr. Devendra under Article 226 and 227 of the Constitution of India, *inter alia*, challenging the impugned speaking order dated 23rd April, 2024 passed by the New Delhi Municipal Council (hereinafter, '*NDMC*') *vide* which the representation of the Petitioner has been rejected by the NDMC.
3. The brief background of this petition is that a Kiosk/*Pan Thara* was initially allotted to Ms. Shyama Devi, Opposite Gate No.B, Supreme Court of India, Tilak Marg, New Delhi. She was the allottee who had passed away on 13th July, 2017. Thereafter, two writs came to be filed being *i.e.*, **W.P.(C) 8885/2018** titled '*Devi Prasad vs NDMC & Ors.*' and **W.P.(C) 8328/2018** titled '*Devendra vs. NDMC & Ors.*' The claim of both the Petitioners in the



said writ petitions were that they were the legal heirs of Ms. Shyama Devi.

4. The claim of Mr. Devendra *i.e.*, Petitioner herein is on the basis of a Will and that he has been running the Kiosk during the lifetime of Ms. Shyama Devi. However, the claim of Mr. Devi Prasad was that he was also a son of Ms. Shyama Devi but according to Mr. Devendra, he was disowned.

5. The order of sealing the Kiosk dated 11th July, 2018 was challenged in these writ petitions and after hearing the stand of all the parties, the Court directed *vide* order dated 13th September, 2018 as under:

*“4. Having regard to the observations made by the Supreme Court of India in the case of **Dharam Chand (supra)**, we are of the considered view that there is no illegality or infirmity in the order of sealing passed by the NDMC. However, we find that post the order of sealing, the NDMC has not made any alternate allotment to the legal heirs of the deceased. Learned counsel for the respondent/NDMC has clarified that the alternate allotment could not have been made on account of the ongoing fight between the legal heirs. Counsel further submits that the request for alternate allotment by the legal heirs of late Smt. Shyama Devi would be considered within a period of six weeks after considering the rival claims of Devender and Devi Prasad and any other person who asserts his/her right over the kiosk. However, we make it clear that we have not expressed any opinion with regard to the dispute and as to who would be surviving legal heir of late Smt. Shyama Devi. Needless to say that in case either of the two parties has produced documents in their support, an order would be passed after hearing both the sides and thereafter an alternate allotment would be made.”*

6. Subsequent to this order, another writ petition being **W.P.(C) 5312/2019** titled **‘Devendra vs. New Delhi Municipal Council & Ors.’** was filed. In the said writ petition, the Id. Single Judge after considering the matter



had passed interim order dated 11th December, 2023 as under:

“1. Shri Sagar Kumar, learned counsel identifies respondent no.4 – Shri Praveen Kumar and represents him in the instant petition.

2. Learned counsel appearing on behalf of respondent no.4 submits that he does not have any objection if the name of the petitioner is recorded in the subject property.

3. Learned counsel appearing on behalf of respondent no.1-NDMC, however, submits that NDMC will have to decide the application for mutation as per the extant Regulations.

4. Respondent no.1-NDMC is directed to decide the application for mutation as per extant Regulations and pass appropriate orders within six weeks.

5. List on 07.05.2024.”

7. As can be seen from the above order, the application for mutation was to be decided by NDMC. In respect of this order dated 11th December, 2023, a contempt case being **CONT. CAS (C) 269/2024** titled ‘**Devendra v. Amit Yadav**’ came to be filed which was dismissed *vide* order dated 7th May, 2024.

8. Thereafter, **W.P.(C) 5312/2019** was also finally decided on 20th March, 2025 in the following terms:

“1. None appears for the petitioner, when the matter is called out.

2. This Court notes that even on the last date of hearing, none had appeared for the petitioner.

3. The present writ petition has been filed challenging the order dated 14th February, 2019, wherein, the application of the petitioner for transfer/regularization of license of the Pan Thara, Opposite Gate No. B, Supreme Court, near College of Arts, Tilak Marg, had been rejected.

4. This Court notes that during the pendency of the present petition, a speaking order dated 23rd April,



2024, has been passed by respondent no.1 New Delhi Municipal Council (“NDMC”), wherein, it has been decided by the Deputy Director (Estate-01) NDMC, that since there are disputes regarding legal heirs of Late Smt. Shyama Devi, the order dated 14th February, 2019 of NDMC, still stands and the representation of the petitioner herein, regarding regularization of the subject Pan Thara in favour of the petitioner, has been rejected. **5. Accordingly, the present petition, along with the pending applications, stands disposed of with liberty to the petitioner to challenge the speaking order dated 23rd April, 2024 passed by the Deputy Director (Estate-01) NDMC.**

6. At later stage, Mr. N.K. Sahoo, learned counsel appearing for the petitioner, has mentioned the matter. He has been intimated about the order passed today.”

9. As can be seen from this order, the Petitioner was given liberty to challenge the impugned speaking order dated 23rd April, 2024. Hence, this writ petition.

10. In the present writ petition, the prayer of the Petitioner is as under:

“(a) To issue a writ of mandamus or appropriate writ or direction or order setting aside the order dated 23.04 2024 by directing the respondent No1 & 2 to restore the license in favour of the petitioner ;
(b) To issue a writ of mandamus or appropriate writ or direction or order directing to de-seal the shop /pan Thara at Tilka Marg , In front of B-Gate Supreme Court ;
(c) And to pass such other and further order or orders as this Hon’ble court deem fit and proper in the interest of Justice .”

11. Mr. Sahoo, Id. Counsel appearing for the Petitioner vehemently contended that Mr. Devi Prasad is a son who has been disowned by the mother



i.e., Ms. Shyama Devi. Id. Counsel for the Petitioner further submits that the sealing of the Kiosk was completely illegal and in any case, as per the scheme of the NDMC, alternate allotment should be given to the Petitioner.

12. According to Mr. Sahoo, Id. Counsel, the dispute between the legal heirs is no longer tenable as the disowning advertisement has been placed in the newspaper.

13. On behalf of the NDMC, however, it is submitted that as per the scheme of the NDMC, the dispute between the legal heirs has to be sorted out within 90 days. The relevant clause of the scheme of the NDMC reads as under:

“5. Transfer of licence on legal heir basis:

(i) All cases before the date of issuing this circular i.e. 16.8.2016 shall be governed as per the Council's resolutions applicable as on that date.

(ii) legal heir(s) shall mean son; daughter; widow; mother; son of a predeceased son; son of a predeceased daughter; daughter of a predeceased daughter; widow of a predeceased son; son of predeceased son of a predeceased son; daughter of a predeceased, son of predeceased son; son of a predeceased daughter of a predeceased daughter; daughter of a predeceased daughter of a predeceased daughter; daughter of a predeceased son of a predeceased daughter; daughter of a predeceased daughter of a predeceased son, of the person whose name is mentioned in the latest licence deed.

(iii) NDMC is not obliged to permit continuation of allotment after death of the allottee. The licence stands cancelled on the death of the licensee. In continuation of past practices, the Council may continue to give a licence to the legal heirs on humanitarian grounds, without enhancement in license fee, for period not exceeding remaining period of the licence held by the deceased, subject to the condition that all other legal heirs submit a NOC in favour of the legal heir(s) whose



name is to be added in the licence.

(iv) If there is dispute in the family, unless they settle the dispute amicably, the licence cannot continue and the premises has to be got evicted. In respect of cases pending in the department for transfer on legal heirs basis, wherever there are disputes, the legal heirs be given a chance to settle the dispute and inform accordingly to the Director Estate NDMC in writing within 90 days from the date of issuing this circular i.e. 16.8.2016.

(v) If dispute is not settled, the licence will be automatically cancelled, and Director Estate shall initiate the necessary action in terms of PP Act, 1971.

(vi) Partnership with legal heir(s) will be allowed with prior approval of NDMC, without enhancement of license fee, subject to the condition that all other legal heirs submit a NOC in favour of the legal heir(s) whose name is to be added in the licence.

(i) Deletion of name of legal heir is allowed without any cost with prior approval of NDMC, subject to NOC from all other holders of that licence.”

14. Mr. Sahoo, Id. Counsel for the Petitioner submits that the transfer can also be made in partnership with the other legal heirs as per the scheme of the NDMC.

15. Heard. The stand of Mr. Devi Prasad clearly as per the counter affidavit filed in the earlier writ petitions is that he is the legal heir who is entitled to be substituted in place of his mother *i.e.*, Ms. Shyama Devi. If either the Petitioner or Mr. Devi Prasad wants to seek transfer of the title under a partnership, they ought to jointly make an application to the NDMC, which has not been done in the present case.

16. Insofar as sealing is concerned, the same was already the subject matter of *W.P.(C) 8885/2018* and *W.P.(C) 8328/2018* which has been disposed of



vide order dated 13th September, 2018. In the present case, the only question is in respect of whether the impugned speaking order is valid or not. The impugned speaking order records as under:

“The brief facts of the case are that

- i. In the year 1976, Smt. Shyama Devi was allotted a Piao at Akbar Road, New Delhi. In the year 1982-83, she was shifted by the Civil Engineering Department of the NDMC to a Model Pan Thara, in lieu of the Piao operated by her, i.e., the subject Pan Thara and since then she was running the business in the subject Pan Thara.*
- ii. With the approval dated 08.07.1985, given by the then administrator, the subject Thara was regularized from the date of allotment of site in 1976 at a nominal fees of Rs.75/-.*
- iii. A writ petition being WP(C) No. 10998/2017 was filed by Sh. Devi Prasad claiming himself to be the sole Legal Heir of allottee Smt. Shyama Devi.*
- iv. As per record a request dated 09.10.2017 was also received from the petitioner (Devendra) claiming himself to be the grandson of the allottee Smt. Shyama Devi being the son of her son namely Sh. Praveen requesting for transfer of the subject Pan Thara on legal heir basis after the demise of the allottee on 13.07.2017.*
- v. Accordingly personal hearings were given on various dates to Sh. Devendra Kumar i.e., present petitioner and one Sh. Devi Prasad i.e., petitioner in the writ petition being WP(C) No. 10998/2017. Both the claimants filed their respective representations alongwith bulky record alleging the claim of each other to be false.*
- vi. The subject Pan Thara was inspected on 06.02.2018 by the then Jt. Director (Estate-I) alongwith Sh. Manoj Kumar Junior Assistant (Estate-I) and Sh. Kabir Saini (Clerical Assistant (Estate-I)). The petitioner was found present in the subject Pan Thara.*
- vii. After perusal of the records filed by both the claimants it is revealed that the allottee Smt. Shyama*



Devi was survived by number of legal heirs.

viii. The allottee and her family members were involved in multiple litigations since atleast 1999 and have also filed number of police complaints against each other.

Whereas, in compliance of the order dated 02.01.2018 passed in writ petition being WP(C) No. 10998/2017 the representations of the both the claimants were considered and an opinion was sought from the Law Department of NDMC on 08.06.2018. The Law Department informed about the judgment dated 29.07.2015 in the case of Dharam Chand Vs. Chairman NDMC and accordingly, the subject Pan Thara was sealed on 13.07.2018. Aggrieved by the said sealing Sh. Devendra filed WP(C) No.8328/18 & Sh. Devi Prasad also filed WP(C) No. 8885/18.

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While, Devendra, petitioner herein, claims to be the grandson of the original

allottee i.e, late Smt. Shyama Devi and her legal heir, and his claim is disputed by Sh.Devi Prasad (Respondent No.3 herein) , who claims to be the sole surviving son of late Smt. Shyama Devi and has filed his counter affidavit before this Hon'ble Court. In fact, in his counter, he (Sh. Devi Prasad) has claimed that Devendra and Sh . Praveen Kumar (Respondent No. 4) are hand in gloves with each other. Since, the policy dated 16.08.2016, specifically states that if there are disputes between the legal heirs, and which are not settled within 90 days of issuance of the circular, the license will be automatically be cancelled .

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In that light, since , there are disputes regarding who is the legal heirs of late Smt.Shyama Devi , the order dated 14.02. 2019 of NDMC still stands and the representation of Sh. Devendra is rejected accordingly.”

17. As can be seen from the impugned speaking order, the claims of Mr.



Devi Prasad and Mr. Devendra *i.e.*, the Petitioner herein are conflicting with each other and the NDMC cannot be blamed.

18. It is for the legal heirs to sort out their *inter-se* differences and then approach the NDMC which unfortunately, they have not done for the last several years. If the disputes are not getting resolved, the Petitioner ought to avail of his legal remedies and obtain a decree of declaration in accordance with law. In the absence of the same, the Kiosk cannot obviously be transferred to the Petitioner.

19. In view thereof, there is infirmity in the impugned speaking order dated 23rd April, 2024.

20. The petition is accordingly dismissed. All pending applications, if any, are disposed of.

21. Needless to add, if the Petitioner has any other legal remedies in respect of *inter-se* disputes, he is free to avail of the same and thereafter approach the NDMC, if permissible in law.

PRATHIBA M. SINGH
JUDGE

MADHU JAIN
JUDGE

FEBRUARY 16, 2026

Rahul/ck