(2012) 04 DEL CK 0367

Delhi High Court

Case No: Review Petition No. 215 of 2012 in Writ Petition (C) 3148 of 2011

Om Prakash Sharma	APPELLANT
Vs	
MCD and Others	RESPONDENT

Date of Decision: April 10, 2012

Hon'ble Judges: Hima Kohli, J

Bench: Single Bench

Advocate: Beenashaw Soni, for the Appellant;

Final Decision: Dismissed

Judgement

Hima Kohli, J.

This review petition is filed by the petitioner praying inter alia for review of order dated 13.01.2012 by which the present petition was disposed of while turning down the claim of the petitioner to allotment of an alternate accommodation and directing the respondent/DUSIB to undertake repair/renovation of the premises occupied by the petitioner within a period of four months from the date the possession thereof is handed over by the petitioner. Counsel for the petitioner states that the aforesaid order may be reviewed for the reason that while filing the additional affidavit, the respondent/DUSIB had not taken into consideration the previous records which contained a report of an Engineer pertaining to the structural strength of the subject property. She states that the basis of making this submission is the averments made in para-4 of the additional affidavit filed by the Deputy Director, DUSIB wherein it was noted that the portion of the premises under occupation of the father of the petitioner had been declared dangerous in the year 1984 by the then LRO(S) but the relevant file was not traceable.

2. The second ground for seeking review of the order dated 13.01.2012 is that at the time of passing the aforesaid order what weighed with the Court that the petitioner had not bothered to deposit the license fee of Rs. 6/- p.m. for the past number of years whereas as per the prescribed procedure, the petitioner cannot deposit the license fee till a demand is raised on him. In support of the aforesaid submission, learned counsel relies on para-6 of the additional affidavit filed on behalf of respondent/DUSIB wherein it is

averred that the petitioner had not deposited any license fee in respect of the portion of the premises occupied by him as there was no demand.

3. It may be noted that non-payment of license fee by the petitioner was not the sole ground for non-suiting him. Rather, it was just one of the considerations as is apparent from a perusal of the order dated 13.01.2012, rejecting the claim of the petitioner for entitlement to an alternate accommodation. As regards the inspection report mentioned in para-4 of the additional affidavit filed by the respondent/DUSIB, it is pertinent to note that in the very same additional affidavit, it had been stated that a fresh inspection of the subject premises had been undertaken by the Department as recently as on 29.10.2011 to ascertain the actual ground position of the property and after the inspection, the respondent/DUSIB had arrived at a conclusion that the portion of the property under the occupation of the petitioner could be repaired within a period of six months by incurring an expenditure of about Rs. 50,000/- for making it habitable without further hindrances.

4. In view of the aforesaid submissions made on behalf of the respondent/DUSIB, the Court was not inclined to direct the respondent/DUSIB to give an alternate accommodation to the petitioner. Instead, it was deemed appropriate to direct DUSIB to ensure that the structural strength of the subject premises is reinforced and necessary repairs are undertaken in a time bound manner to make it habitable. When the property under the occupation could be made habitable by respondent/DUSIB, the petitioner cannot claim an alternate accommodation as a vested right. In view of the aforesaid facts, the present review petition is found to be devoid of merits and is accordingly dismissed.