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

+ W.P.(CRL) 443/2024 & CRL.M.A. 4059/2024, CRL.M.A. 4060/2024

MOHD ARIF ANSARI

..... Petitioner

Through: Mr. Shahrukh Alam, Mr. Md. Arif Hussain, Mr. Shantanu and Ms. Nehal A. Siddiquee, Advs.

versus

STATE OF GOVT. OF NCT OF DELHI AND ORS. .... Respondents

Through: Mr. Amol Sinha, ASC, Criminal with Mr. Ashvini Kumar, Mr. Arjun Singh Kadian and Mr. Kshitiz Garg, Advocates for R-1 and R-2.  
ACP Yogesh Malhotra, Sub Div, Sarita Vihar, Inspector Vinay Kumar, PS Shaheen Bagh.

**CORAM:**

**HON'BLE THE ACTING CHIEF JUSTICE**

**HON'BLE MS. JUSTICE MANMEET PRITAM SINGH ARORA**

**ORDER**

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**08.02.2024**

1. Present writ petition has been filed challenging the impugned notification dated 28<sup>th</sup> September, 2022 (“impugned Notification”) issued in respect of property at B-27/2, 3<sup>rd</sup> floor, Thokkar No. 7, Jamia Nagar, Delhi (“subject property”) as well as notice dated 30<sup>th</sup> September, 2022 issued under Section 43(F) of the Unlawful Activities (Prevention) Act (“UAPA”), 1967 by the SHO, P.S. Shaheen Bagh, for furnishing information/



documents with respect to the subject property. The Petitioner further seeks issuance of directions to the Respondents to release, de-seal and unlock the subject property.

2. Pursuant to notification dated 27<sup>th</sup> September, 2022 issued under Section 3(1) of the UAPA, 1967, Popular Front of India (“PFI”) and its alleged associates and affiliates have been declared as an unlawful association. Vide the impugned Notification, the subject property was notified as being used for the purpose of carrying out activities of PFI and its associates or affiliates.

3. Learned counsel for the Petitioner states that the Petitioner, who is the lawful owner property in question had leased the same to one Mr. Muhammad Faizal Charath vide rent agreement dated 03<sup>rd</sup> December 2021, for a period of eleven months commencing w.e.f. 01<sup>st</sup> December, 2021 to 31<sup>st</sup> October, 2022, and not to PFI or to any of its alleged associates or affiliates. She states that the petitioner is not a member of the PFI and had no knowledge that the tenant was a member of the PFI or that the house was being used for carrying out unlawful activities.

4. Learned counsel for the respondent Nos. 1 and 2, who appears on advance notice, states that the present writ petition is not maintainable as the petitioner has an alternative effective remedy of filing an application before the Court of District Judge under Section 8(8) of the UAPA, 1967.

5. Since considerable emphasis was laid on Section 8(1) and Section 8(8) of UAPA, 1967, the same are reproduced hereinbelow:

**“8. Power to notify places used for the purpose of an unlawful association.—(1) Where an association has been declared unlawful by a notification issued under section 3 which has become effective under subsection (3) of that section, the Central Government may, by notification in the Official Gazette, notify any place which in its opinion is used for the purpose**



*of such unlawful association.*

*Explanation.—For the purposes of this sub-section, “place” includes a house or building, or part thereof, or a tent or vessel.*

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*8) Any person aggrieved by a notification issued in respect of a place under sub-section (1) or by an order made under sub-section (3) or sub-section (4) may, within thirty days from the date of the notification or order, as the case may be, make an application to the Court of the District Judge within the local limits of whose jurisdiction such notified place is situate—*

*(a) for declaration that the place has not been used for the purpose of the unlawful association; or*

*(b) for setting aside the order made under sub-section (3) or sub-section (4), and on receipt of the application the Court of the District Judge shall, after giving the parties an opportunity of being heard, decide the question.”*

6. This Court is of the view that the intent of notifying a place under Section 8 of UAPA is to ensure that it is not used for unlawful activities. Its intent is not to seize the properties of innocent owners who are neither members of the unlawful association nor involved in unlawful activities. In fact, it is the case of the petitioner that he did not know that his property was being used by the tenant for unlawful activities.

7. Keeping in view the fact that the matter may require a factual enquiry and the submission of learned counsel for the respondent Nos. 1 and 2 that the petitioner has an alternative effective remedy, this Court disposes of the present writ petition with liberty to the petitioner to file an application before the District Judge. Keeping in view the fact that the petitioner had initially appeared before the ACP and made a request for de-sealing of the premises, this Court condones the delay in approaching the Court of the District Judge. Accordingly, this Court directs that in the event, the petitioner files an application before the Court of District Judge within a week, the same shall not be dismissed on the ground of delay/ laches. The



District Judge is directed to decide the matter as expeditiously as possible in accordance with law. This Court clarifies that it has not commented on the merits of the controversy. The rights and contentions of all the parties are left open.

**ACTING CHIEF JUSTICE**

**MANMEET PRITAM SINGH ARORA, J**

**FEBRUARY 8, 2024**

*N.Khanna*