

(2007) 08 DEL CK 0086

In the Delhi High Court

Case No : Criminal M.C. No"s. 1522 and 1526 of 2004

Vandana Luthra

APPELLANT

Vs

M.C.D.

RESPONDENT

Date of Decision : 07-08-2007

Acts Referred:

Delhi Municipal Corporation Act, 1957 — Section 347, 461

Citation : (2007) 08 DEL CK 0086

Hon'ble Judges : Pradeep Nandrajog, J

Bench : Single Bench

Advocate : Dinesh Mathur, Mohit Mathur, S.S. Chadha and Mrinal Bharati, for the Appellant; Gaurang Kanth, for the Respondent

Judgement

Pradeep Nandrajog, J.—Vide Crl.M.C. No. 1522/2004 petitioner challenges her being summoned by the learned Metropolitan Magistrate, New Delhi to face a charge u/s 347/461 of the DMC Act 1957 pursuant to a criminal complaint lodged by the Municipal Corporation of Delhi.

2. The complaint relates to an alleged misuse of the basement of the property No. R-75, Greater Kailash, Part-I, New Delhi.

3. In Crl.M.C. No. 1526/2004, petitioner challenges another similar order summoning her to face a similar charge pertaining to a property No. 11/1-B, Pusa Road, New Delhi.

4. In the complaint forming subject matter of Crl.M.C. No. 1522/2004, it is inter alia alleged that M/s. VLCC Beauty Care Centre of which petitioner was the manager/in-charge was found misusing the property. In the complaint forming subject matter of Crl.M.C. No. 1526/2004 it was stated that the petitioner as proprietor of M/s. VLCC Beauty Care Centre was misusing said property.

5. On what basis was it alleged that the petitioner was the manager/in-charge of M/s. VLCC Beauty Care Centre or on what basis it was being alleged that the petitioner was the owner/occupier of the property at Pusa Road had not been

stated anywhere in the respective petitions.

6. I need not deal with the nitty gritty of the issues urged in the 2 petitions for the simple reason it is not disputed by learned Counsel for the MCD that qua property No. R-75, Greater Kailash, Part-I, New Delhi by and under a franchise agreement dated 5.4.2002 M/s. Curls and Curves India Ltd., a company incorporated under the Companies Act have authorized Smt. Seema Virmani and Smt. Leela Sethi to operate as a franchise, a beauty and slimming centre from said premises using the name of Curls and Curves. It is thus apparent that the slimming, beauty and fitness centre was being run and managed by Seema Virmani and Leela Sethi.

7. Assuming that the franchise agreement was a smoke screen, in said eventuality the user would be by M/s. Curls and Curves India Ltd.

8. It is not the case of the MCD that the petitioner was in-charge of the affairs of said company pertaining to the premises in question.

9. Similarly, pertaining to the property at Pusa Road, Jai Baba Associates, a partnership firm of Manpreet Singh Arora and Sukhmeet Singh Arora have been authorized by M/s. Curles and Curves India Ltd. to operate a beauty and slimming health centre from said place as franchise under M/s. Curls and Curves India Ltd.

10. Question of the petitioner being the owner/occupier Page 3 of 4 in her own right does not arise.

11. Both petitions stand disposed of quashing the summoning order summoning the petitioner to face trial in the respective 2 complaints.

12. Copy of this order be supplied dasti by the Registry to learned Counsel for the petitioner on payment of usual charges.