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IN THE HIGH COURT OF DELHI AT NEW DELHI

+ W.P.(C) 5866/2010 & CM No.11551/2010 (for stay)

MD YAQUB

..... Petitioner

Through: Mr. Jivesh Tiwari & Mr. Suman
Chauhan, Advocates.

Versus

MUNICIPAL CORPORATION OF DELHI

..... Respondent

Through: Mr. Nawal Kishore Jha, Advocate.

AND

40

+ W.P.(C) 5867/2010 & CM No.11553/2010 (for stay)

MANGAL VISHWAS

..... Petitioner

Through: Mr. Jivesh Tiwari & Mr. Suman
Chauhan, Advocates.

Versus

MCD

..... Respondent

Through: Ms. Mansi Gupta, Advocate.

AND

41

+ W.P.(C) 5868/2010 & CM No.11555/2010 (for stay)

PREM WATI

..... Petitioner

Through: Mr. Jivesh Tiwari & Mr. Suman
Chauhan, Advocates.

Versus

MCD

..... Respondent

Through: Ms. Saroj Bidawat and Mr. Hari Om
Sharan Singh, Advocates

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 Certify that the digital file and
 physical file have been compared and
 the digital data is as per the physical
 file and no page is missing.

AND

42.

+ W.P.(C) 5870/2010 & CM No.11558/2010 (for stay)

KHETRAPAL SAHU

..... Petitioner

Through: Mr. Jivesh Tiwari & Mr. Suman
Chauhan, Advocates.

Versus

MCD

..... Respondent

Through: Ms. Mansi Gupta, Advocate.

AND

43.

+ W.P.(C) 5871/2010 & CM No.11560/2010 (for stay)

MADHU SUDHAN BHOMIK

..... Petitioner

Through: Mr. Jivesh Tiwari & Mr. Suman
Chauhan, Advocates.

Versus

MCD

..... Respondent

Through: Ms. Saroj Bidawat and Mr. Hari Om
Sharan Singh, Advocates

AND

44.

+ W.P.(C) 5872/2010 & CM No.11562/2010 (for stay)

JEEVAN DAS

..... Petitioner

Through: Mr. Jivesh Tiwari & Mr. Suman
Chauhan, Advocates.

Versus

MCD Respondent
Through: Ms. Saroj Bidawat and Mr. Hari Om
Sharan Singh, Advocates

AND

45.
+ W.P.(C) 5873/2010 & CM No.11564/2010 (for stay)

RAVINDER SINGH Petitioner
Through: Mr. Jivesh Tiwari & Mr. Suman
Chauhan, Advocates.

Versus

MUNICIPAL CORPORATION OF DELHI Respondent
Through: Mr. Nawal Kishore Jha, Advocate.

AND

46.
+ W.P.(C) 5874/2010 & CM No.11566/2010 (for stay)

VIKRAM SINGH Petitioner
Through: Mr. Jivesh Tiwari & Mr. Suman
Chauhan, Advocates.

Versus

MCD Respondent
Through: Ms. Saroj Bidawat and Mr. Hari Om
Sharan Singh, Advocates

AND

47.
+ W.P.(C) 5875/2010 & CM No.11568/2010 (for stay)

GYAN CHAND Petitioner
Through: Mr. Jivesh Tiwari & Mr. Suman
Chauhan, Advocates.

Versus

MUNICIPAL CORPORATION OF DELHI Respondent
Through: Mr. Nawal Kishore Jha, Advocate.

AND

49.

+ W.P.(C) 5877/2010 & CM No.11571/2010 (for stay)

BAL BIR Petitioner
Through: Mr. Jivesh Tiwari & Mr. Suman
Chauhan, Advocates.

Versus

MUNICIPAL CORPORATION OF DELHI Respondent
Through: Mr. Nawal Kishore Jha, Advocate.

AND

50.

+ W.P.(C) 5879/2010 & CM No.11573/2010 (for stay)

JAMAN SINGH Petitioner
Through: Mr. Jivesh Tiwari & Mr. Suman
Chauhan, Advocates.

Versus

MCD Respondent
Through: Ms. Saroj Bidawat and Mr. Hari Om
Sharan Singh, Advocates.

AND

51.

+ W.P.(C) 5880/2010 & CM No.11575/2010 (for stay)

MD.SALIM Petitioner
Through: Mr. Jivesh Tiwari & Mr. Suman
Chauhan, Advocates.

Versus

MUNICIPAL CORPORATION OF DELHI Respondent
Through: Mr. Nawal Kishore Jha, Advocate.

AND

52.

+ W.P.(C) 5881/2010 & CM No.11577/2010 (for stay)

JADGISH SAHU Petitioner
Through: Mr. Jivesh Tiwari & Mr. Suman
Chauhan, Advocates.

Versus

MUNICIPAL CORPORATION OF DELHI Respondent
Through: Mr. Nawal Kishore Jha, Advocate.

AND

53.

+ W.P.(C) 5882/2010 & CM No.11579/2010 (for stay)

PAWAN DAS Petitioner
Through: Mr. Jivesh Tiwari & Mr. Suman
Chauhan, Advocates.

Versus

MUNICIPAL CORPORATION OF DELHI Respondent
Through: Ms. Mansi Gupta, Advocate.

AND

54.

+ W.P.(C) 5883/2010 & CM No.11581/2010 (for stay)

KASHINATH

..... Petitioner

Through: Mr. Jivesh Tiwari & Mr. Suman,
Chauhan, Advocates.

Versus

MUNICIPAL CORPORATION OF DELHI

..... Respondent

Through: Ms. Mansi Gupta, Advocate.

AND

55.

+ W.P.(C) 5884/2010 & CM No.11583/2010 (for stay)

SUKHDEV SARKAR

..... Petitioner

Through: Mr. Jivesh Tiwari & Mr. Suman
Chauhan, Advocates.

Versus

MUNICIPAL CORPORATION OF DELHI

..... Respondent

Through: Ms. Mansi Gupta, Advocate.

CORAM:

HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW

ORDER

06.09.2010

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1. The petitioners in these writ petitions claim to be hawkers and further claim to have applied to Zonal Vending Committee for allotment of a hawking site. They seek protection from dispossession from their existing

hawking sites till their representations before the Zonal Vending Committee are decided. The counsel for the petitioners besides referring to various orders of this Court wherein the possession of others, whose representations before the Zonal Vending Committee are pending, has been protected, also relies on *Patri Vyapar Mandal Delhi (Regd) Vd. M.C.D. Town Hall* (2009) 12 SCC 475 wherein the Apex Court has clarified that the National Capital Territory of Delhi Laws (Special Provisions) Second Act, 2009 has to be given effect to.

2. The counsels for MCD, the sole respondent impleaded in all these petitions state that the area from which the petitioners claim to be hawking has been declared to be a non hawking zone. They further state that the said area is not under the jurisdiction of MCD but is within the jurisdiction of DDA or PWD. The counsels have also handed over in the Court a note dated 31st August, 2010 of the Licensing Inspector, Central Zone, duly verified by the Assistant Commissioner, Central Zone of the MCD stating that Guru Ravidas Marg from where petitioners claim to be hawking / squatting is a non hawking/squatting zone.

3. . This Court undoubtedly has in several other matters protected the possession of the hawkers till the decision of their representation by the Zonal Vending Committee. However, each of the said orders is on the condition that the protection granted by the Court will not enure if the area where the petitioners were hawking/squatting falls in a non hawking zone.

4. It was also brought to the notice of this Court in several such matters that owing to such orders being made by the Courts, the functioning of the Zonal Vending Committee is being affected inasmuch as the persons found eligible by the Zonal Vending Committee and allotted a particular site are being deprived of their sites so allotted to them owing to the same having been occupied by some other persons whose eligibility is still to be determined but whose possession/occupation was protected by the order of the Court. In these circumstances, in subsequent orders, this Court has also clarified that the protection shall not be available if the site on which the petitioners are hawking / squatting is allotted to some other person found eligible by the Zonal Vending Committee. Thus, the petitioners herein cannot rely on the said orders.

5. The counsel for the petitioners contends that there are several other hawkers who are hawking on Guru Ravidas Marg and controverts the stand of the MCD of Guru Ravidas Marg being a non hawking / squatting zone.

6. Need is not felt to keep these petitions pending to resolve the said controversy. The rights of the petitioners are ultimately to be decided by the Zonal Vending Committee only. The petitioners have only given the Diary Numbers of the applications/representations stated to have been filed by them before the Zonal Vending Committee. The counsels for the respondent MCD point out that in WP(C)5882/2010 the particulars of the petitioner are also vague.

7. Insofar as the reliance on the Act aforesaid is concerned, the provisions of Sections 3(1)(b) and 3(2) thereof have to be read in conjunction with the provisions of Section 4 of the said Act. Section 4 disentitles from relief under Section 3 of the Act in respect of encroachment on public street/land. Section 3(1)(b) refers only to scheme and orderly arrangements for regulation of urban street vendors in consonance with the National Policy for Urban Street Vendors and Hawkers. If under the said policy

a particular site is declared as non hawking zone, then the benefit of Section 3(1)(b) / 3(2) would not be available to an unauthorized squatter/hawker on the said road.

8. The petitions are therefore disposed of only with the direction to the petitioners to appear before the Zonal Vending Committee alongwith all the documents required by the Zonal Vending Committee to assess the eligibility of the petitioners. The Zonal Vending Committee to decide the case of each of the petitioners within one month of the petitioners' appearing before the Zonal Vending Committee. The petitioners will not be entitled to squat/hawk in any non hawking zone till then.

The petitions are disposed of. No order as to costs.

CM No.11552/2010 in W.P.(C) 5866/2010, CM No.11554/2010 in W.P.(C) 5867/2010, CM No.11556/2010 in W.P.(C) 5868/2010, CM No.11559/2010 in W.P.(C) 5870/2010, CM No.11561/2010 in W.P.(C) 5871/2010, CM No.11563/2010 in W.P.(C) 5872/2010, CM No.11565/2010 in W.P.(C) 5873/2010, CM No.11567/2010 in W.P.(C) 5874/2010, CM No.11569/2010 in W.P.(C) 5875/2010, CM No.11572/2010 in W.P.(C) 5877/2010, CM No.11574/2010 in W.P.(C) 5879/2010, CM No.11576/2010 in W.P.(C) 5880/2010, CM No.11578/2010 in W.P.(C) 5881/2010, CM No.11580/2010 in W.P.(C) 5882/2010, CM No.11582/2010 in W.P.(C) 5883/2010, CM No.11584/2010 in W.P.(C) 5884/2010 (all u/s 151 CPC for exemptions)

Allowed subject to just exceptions.

SEPTEMBER 06, 2010
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RAJIV SAHAI ENDLAW, J