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IN THE HIGH COURT OF DELHI AT NEW DELHI

+ W.P.(C) 6471/2012

RENU

..... Petitioner

Through: Mr. M.M.Kashyap, Advocate.

versus

MCD

..... Respondent

Through: Mr. P. Bhardwaj, Advocate.

CORAM:

HON'BLE MR. JUSTICE G.S.SISTANI

ORDER

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12.10.2012

C.M.17185/2012(Exemption)

Exemption allowed, subject to just exceptions.

C.M.17184/2012

The application is dismissed as not pressed.

W.P(C)6471/2012

By the present writ petition, the petitioner seeks a direction to the respondents not to disturb the petitioner from carrying on her trade at the site from Ajmal Khan Road.

It is not in dispute that petitioner has since been allotted a Tehbazari site, measuring 6'X 4' known by No.3/40 at Government quarter Dev Nagar by the MCD. According to the petitioner, this is a non-trading site and nobody is sitting there to carry on the trade. He submits that the site is not feasible and thus prays that she may be allowed to carry on her

Tehbazari business from the present site.

Signature Not Verified
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By:AMULYA

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Counsel for the respondent who enters appearance on advance copy submits that the petitioner has withheld and concealed material facts from this Court and thus she is not entitled to any relief. The petitioner had approached this Court on 31.08.2012 by filing writ petition No. 5376/2012. The aforesaid writ petition was dismissed as withdrawn with liberty to approach the appellate authority, MCD. Respondent no.1/ MCD has handed over a copy of an affidavit wherein it has been stated that a Teh Bazari has been granted in favour of the petitioner at site No.3/40, Dev Nagar under category -III, but the petitioner chose not to squat at the allotted site. The petitioner was squatting in front of Zohra Emporium at Ajmal Khan Road. The owner of Zohra Emporium filed a writ petition No.5735/2010 before this court, which was disposed of with a direction to the MCD to remove the squatters/ hawkers from the pavement/ street in front of the Zohra Emporium. It has been further stated in the affidavit that MCD has taken action against encroachment many times but due to defiant attitude of some of the squatters owner of Zohra Emporium filed a contempt petition no.839/10, which is fixed for 23.01.2013. In compliance of directions of this court, the department is taking action for removal of encroachers/ squatters in front of the Zohra emporium, Ajmal Khan Road. Counsel for the respondent further submits that no relief can be granted to the petitioner as the petitioner is Teh Bazari holder under category -III and was squatting in front of the Zohra Emporium instead of at the allotted site.

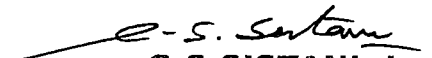
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I have heard counsel for the parties. There is no explanation rendered by counsel for the petitioner for not disclosing filing of the earlier writ petition and the liberty granted as sought to approach the appropriate authority. Having regard to the fact that the petitioner has already been allotted an alternate site and taking into consideration that the MCD has also, by a communication dated 10.01.2002 informed the petitioner that any request for change of site will only be considered after physical possession of the allotted site has been taken, I am of the view that the petitioner must first take physical possession of the allotted site and thereafter, if so advised, approach the respondent for request of change of site. No ground is made out to entertain this petition. The writ petition is accordingly dismissed.

OCTOBER 12, 2012

as

W.P(C)6471/2012


G.S.SISTANI, J

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