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

+ **CONT.CAS(C) 475/2019**

**ROHINI EWS FLATS RESIDENTS WELFARE ASSOCIATION &
ORS** Petitioners

Through: None

versus

**VARSHA JOSHI, NORTH DELHI MUNICIPAL CORPORATION
& ORS** Respondents

Through: Mr Siddhant Nath, Standing Counsel
for MCD
Mr. Lalitaksh Joshi, Advocate for R-2
with Mr. Satish, ASI (Traffic Police)

**CORAM:
HON'BLE MR. JUSTICE GIRISH KATHPALIA**

ORDER

08.04.2024

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[Physical Hearing/Hybrid Hearing (as per request)]

1. Be awaited for counsel for petitioners.

GIRISH KATHPALIA, J

APRIL 8, 2024/as



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

% *Date of Decision: 08.04.2024*

+ **CONT.CAS(C) 475/2019**

ROHINI EWS FLATS RESIDENTS WELFARE ASSOCIATION &
ORS Petitioners

Through: Mr. Sandeep Kumar, Advocate

versus

VARSHA JOSHI, NORTH DELHI MUNICIPAL CORPORATION
& ORS Respondents

Through: Mr Siddhant Nath, Standing Counsel
for MCD
Mr. Lalitaksh Joshi, Advocate for R-2
with Mr. Satish, ASI (Traffic Police)

CORAM: JUSTICE GIRISH KATHPALIA

JUDGMENT (ORAL)

1. In the pre-lunch session today, the following order was passed:

“1. Be awaited for counsel for petitioners.”

2. In this call, I have heard the learned counsel for petitioners as well as learned counsel for respondent no. 1.

3. The contempt alleged against the respondents is non-compliance with orders dated 27.09.2017 and 05.02.2018 passed by the Division Bench of this Court in W.P.(C) 2015/2017.

4. The order dated 27.09.2017 of W.P.(C) 2015/2017 is extracted below:

“The present writ petition has been filed by the Rohini EWS Flats Residents Welfare Association. The prayer inter alia made in this writ petition is to direct respondent no.1 to remove the encroachments and illegal activities committed by the Weekly Som Bazar vendors at Sector-5, Rohini, New Delhi.

Learned counsel for the petitioners submits that on account of the Weekly Market, the



entire colony comes to a standstill. The residents of the area are put to a great inconvenience. On account of the Weekly Market, there are traffic jams, insanitary conditions prevail, garbage is thrown to all over the colony, the security of the citizens and, more particularly, the members residing in the colony is seriously affected. Counsel submits that in case of any unforeseen calamity, relief would be virtually impossible. Learned counsel for the petitioners further submits, on instructions, that the petitioner strongly objects to the manner in which the vendors are allowed to vend. He suggests that at least three members of the Welfare Association should be associated by the respondents to help in regulating the Weekly Market and to ensure that the market is run in a regulated manner.

Counsel appearing for the North Delhi Municipal Corporation (NDMC) and Police submit that they have been regulating the vendors of the Weekly Market. Counsel appearing for the NDMC submits that the NDMC is taking all steps for regulating the Weekly Market. It is submitted that photographs taken on 04.09.2017, 05.09.2017, 11.09.2017 and 12.09.2017 have been filed (however, the same are not on record). Another set has been handed over in Court, which is seen and returned. The counsel further submits that the North Delhi Municipal Corporation will hold a meeting, which would be attended to by the SHO and Traffic Inspector of the area, three members of the petitioner Association and three members from the Weekly street vendors association.. If the street vendors do not have an association, they would be at liberty to nominate any three persons. In the meeting, ways and means will be devised to ensure that the Weekly Market does not cause any inconvenience to the residents, there is proper management of traffic, proper disposal of garbage and to ensure that in case of any unforeseen incident, the relief can be reached at the spot. The meeting will be held in the week commencing 23.10.2017 and the Minutes of the Meeting will be filed in the Court.

The photographs shall form part of this order. The North Delhi Municipal Corporation and the Police shall remain bound by the stand taken in the counter affidavit and the photographs, which has been placed on record.

With these directions the writ petition stands disposed of.

List on 13.11.2017, before which date the Minutes of the Meeting shall be filed in Court.

Dasti to the parties."

5. The other order, dated 05.02.2018, defiance whereof has been alleged is extracted below:

" This petition was disposed of by an order dated 27.09.2017. The matter has thereafter been listed from time to time. Mr. Inder Sethi submits that the situation has improved, however, the street vendors are not complying with the norms of MCD i.e. 6x4 ft. open to sky. NDMC shall ensure that the norms are not violated.

No further orders are required to be passed."

6. It is a matter of record that in compliance with the order dated 27.09.2017, a meeting as directed by the Division Bench of this Court was held on 06.11.2017 and minutes thereof are at *pdf page 77* of the paperbook.



Even subsequent thereto, action is being repeatedly taken by the respondents to ensure that the squatters strictly adhere to the norms of MCD as regards stall size etc.

7. Learned counsel for petitioners submits that the status reports filed by the respondents are sham reports insofar as the photographs filed in response by the petitioners reflect that the squatters have not been adhering to the stall size norms.

8. Merely on the basis of photographs, size of the stalls cannot be precisely ascertained. It also cannot be ascertained only from the photographs as to whether the same pertain to the area in question. Most importantly, the issue to be considered in these proceedings is as to whether the respondents have wilfully flouted orders dated 27.09.2017 and 05.02.2018 of the Division Bench of this Court. Those orders directed the respondents to hold a meeting which would involve representatives of the residents as well as squatters and also to ensure adherence by the squatters to MCD norms.

9. The document at *pdf page 77* is a copy of minutes of meeting held by the respondents, involving the residents and squatters, in compliance with order dated 27.09.2017. The respondents have also placed on record through their status reports various photographs reflecting the anti-encroachment drives undertaken by them and the documents of impounding various articles of the squatters violating the norms. Those photographs are at *pdf pages 181 to 185* of the paperbook. The documents reflecting impounding of the articles of the defaulting squatters are at *pdf pages 161 to 173* of the paperbook. The respondents have also placed on record the communications *inter se* as regards anti encroachment drives and those communications are



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at pdf pages 174 to 179.

10. Looking into the aforesaid material on record, I do not find it to be a case of disobedience or defiance of the orders dated 27.09.2017 and/or 05.02.2018, passed by the Division Bench of this Court in W.P.(C) 2015/2017. As such, the present petition is dismissed.

**GIRISH
KATHPALIA** Digitally signed by
GIRISH KATHPALIA
Date: 2024.04.08
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**GIRISH KATHPALIA
JUDGE**

APRIL 8, 2024/as/rk

Click here to check corrigendum, if any

Signature Not Verified

Digitally Signed
By: VAIISHALI CHAUHAN
Signing Date: 08.04.2024
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