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

+ **CONT.CAS(C) 296/2012 & CM Appl. 10413/2015**

MD ZIAUL HAQUE AND ORS

..... Petitioners

Through: Mr. _____ Advocate (appearance not
given) for Mr. Prashant Bhushan, Adv.

versus

PK TRIPATHI AND ORS

..... Respondents

Through: Mr. Satyakam, Adv. for R-1

Mr. Parvinder Chauhan with Mr. Nishant Prateek,
Adv. and Mr. Shiv Kumar, Asst. Director for
DUSIB

Mr. Arun Birbal with Mr. Sanjay Singh, Adv. for
DDA

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Date of Decision : 10th September, 2015

CORAM:

HON'BLE MR. JUSTICE MANMOHAN

J U D G M E N T

MANMOHAN, J: (Oral)

1. The present contempt petition has been filed alleging wilful disobedience of the order dated 08th November, 2011 passed in Contempt Case (C) 803/2011 in WP(C) 2562/2010 whereby the petitioners were directed to appear before the DUSIB office to establish the claim that they were residing in the jhuggis at the time of demolition. DUSIB was also directed to keep in mind the objections raised by the respondent-DDA in the aforesaid writ petition.

2. The operative portion of the order dated 15th November, 2010 passed in WP(C) No. 2562/2010 is reproduced hereinbelow:-

“ 8. Considering the stand of the respondent DDA, this Court on behalf of DDA instructs the Board to carry out the survey of the petitioners to determine whether the petitioners are eligible for re-location or not. The said survey to obviously to deal with the pleas aforesaid of the respondent DDA that the petitioners were not residents of the said Jhuggi Jhopris but were only carrying on hazardous commercial activity therein.

9. The petitions are therefore disposed of with the direction to the Delhi Urban Shelter Improvement Board to carry out the survey of the petitioners. The petitioners to appear before the Board first on 6th December, 2010 at 1100 hours and on such other dates as may be directed. The survey be completed preferably within six months thereafter. Needless to state that if the petitioners or any of them are found eligible for re-location, they be re-located in terms of the policy.”

(emphasis supplied)

3. In the contempt petition, it has been averred that despite lapse of four months since the petitioners appeared before the DUSIB and submitted the original documents, no order has been passed till date.

4. On 20th May, 2015, an additional affidavit has been filed on behalf of the DDA enclosing the joint minutes of meeting dated 30th January, 2015.

5. Learned counsel for the petitioners states that the decision taken in the joint minutes of meeting is contrary to the judgment of this Court in ***Sudama Singh & Others v. Government of Delhi & Anr.*** WP(C) No. 8904/2009, ***decided on 11th February, 2010*** .

6. In the opinion of this Court, the only direction given by the learned Single Judge was to determine whether the petitioners are eligible for

relocation or not. Since that decision has been taken, this Court is of the view that the respondents cannot be held guilty of wilful disobedience of this Court's order dated 15th November, 2010.

7. This Court is prima facie of the view that for the reasons disclosed in paras 7 and 8 of the Minutes of Meeting dated 30th January, 2015, it cannot be held that the said minutes are contrary to the judgment of this Court in ***Sudama Singh & Others*** (supra). The said portion of the joint minutes of meeting dated 30th January, 2015 is reproduced hereinbelow:-

“7. During the meeting the officers of DUSIB and DDA both perused the demolition report read with Newspaper report, photographs and demolition report and come to clearly the conclusion that all material evidence brings out that jhuggies were used for storage of plastic and similar hazardous material.

The jhuggies were demolished in pursuance of High Court order dated 31 July 2006, 15 Nov. 2006 and the compliance report of the said directions of the High Court was also noted by Hon'ble High Court vide order Dt. July 09, 2008.

8. Pursuance to the directions of Hon'ble High Court dated, 15 Nov.2010 DUSIB examined the ration cards and found 37 ration cards in order. However it does not confirm the eligibility rights as stated in the foregoing paras. Both the department agreed with the same views. Thus there is no violation or wilful disobedience of the Hon'ble court order dated 15, Nov 2010.”

(emphasis supplied)

8. In any event, if the petitioners feel that the aforesaid decision is contrary to law or factually incorrect, they are at liberty to challenge the same.

9. Consequently, the present contempt petition is disposed of with liberty to the petitioners to challenge the decision taken by the DDA as well as by DUSIB in the joint minutes of meeting held on 30th January, 2015 in accordance with law.

10. It is clarified that this Court has not expressed any opinion on the merits of the decision recorded in the Minutes of Meeting dated 30th January, 2015. Rights and contentions of all parties are left open.

MANMOHAN, J

SEPTEMBER 10, 2015
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