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

+ **CONT.CAS(C) 22/2016**

CHANDER PAL Petitioner
Through **Mr.N.K.Sahoo, Advocate**

versus

NARESH KUMAR & ORS Respondents
Through **Mr.Sri Harsha Peechara, ASC, NDMC**
with Mr.Mananjay Mishra, Ms.Shailja
Mishra & Ms.Vidhi Jain, Advocates for
respondents.
Mr.Ashish Mohan, Advocate with
Mr.Mohit Kumar, Advocate for Sarojini
Nagar Market Association.

CORAM:

HON'BLE MR. JUSTICE G.S.SISTANI

HON'BLE MR. JUSTICE VINOD GOEL

ORDER

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09.12.2016

Petitioner has filed the present petition under Article 215 of the Constitution of India read with Sections 10 & 11 of the Contempt of Courts Act, 1971, alleging wilful disobedience of the order dated 25.05.2011 passed by a Single Judge of this Court in W.P. (C) No.3217/2011. Along with this contempt petition, the petitioner has placed on record the site plan to show the area at which he was vending. The site plan finds a place at page 49 of the paper-book.

Mr.Sahoo, learned counsel for the petitioner submits that despite the fact that the petitioner was found eligible for allotment of a vending site under the Scheme, the petitioner has been removed from the site at which he was vending.

Learned counsel for NDMC submits that the present contempt petition is not maintainable as the respondents did not find the petitioner eligible and the order of the Single Judge being conditional in nature, it cannot be said that the respondents wilfully disobeyed the order passed by the Court. Counsel further submits that the present petition raises disputed questions of fact as to where the petitioner is squatting. There is no clarity as firstly, in the site plan it is shown as if the petitioner is squatting in the middle of the passage and secondly, as per the memo of parties the petitioner is vending in front of Shops No.136 & 137, Sarojini Nagar, New Delhi; the application filed before the TVC, copy of which has been placed at page 30 of the paper-book, shows that he is squatting outside Shop No.136. Mr.Sahoo clarifies that the petitioner is, in fact, squatting in the vicinity of Shops No.136 & 137. He submits that there is a lot of open space around the aforesaid two shops and merely because an incorrect description has been given by the petitioner, his petition cannot be rejected.

We have heard the learned counsel for the parties. On 25.05.2011 the following order was passed by the Single Judge, of which wilful disobedience is alleged; the operative part of the order reads as under:-

“6. It is further ordered that if any of the petitioners are found eligible for allotment of a vending site under the Scheme, the aforesaid interim protection will continue to operate in their favour till such time that the respondent/NDMC implements the scheme of allotment of the vending sites.”

Reading of the order would show that the order was conditional in nature. Continuation of the order was dependent on the petitioner being found eligible for allotment of a vending site. In our view, since the petition raises disputed questions of fact with regard to site at which the petitioner is squatting and also there is a dispute with regard to his eligibility, no contempt is made out. However, we make it clear that this order will not come in the way of the

petitioner in agitating his legal rights, if any, in any appropriate Court of jurisdiction. Any observations made by this Court are restricted to the decision with regard to the contempt petition.

Contempt petition is accordingly disposed of.

G.S.SISTANI, J.

VINOD GOEL, J.

DECEMBER 09, 2016/ka /