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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **W.P.(C) 942/2016 & C.M. No.4085/2016**
SHYAM MURARI

..... Petitioner

Through Mr. Ramesh K. Mishra, Adv.

versus

SOUTH DELHI MUNICIPAL CORPORATION AND ANR

..... Respondents

Through Counsel for the respondents
(appearance not given)

CORAM:

HON'BLE MS. JUSTICE INDERMEET KAUR

ORDER

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09.08.2016

The petitioner before this Court is one Shyam Murari. He had filed an earlier writ petition seeking certain reliefs; (W.P. (C) No. 4681/2011 titled Prem Singh and Others Vs. Municipal Corporation of Delhi along with 30 other petitioners). There were 51 petitioners who had preferred that writ petition. On a statement made by the counsel Mr. R.K. Mishra (also appearing today for the same petitioner), out of 51 petitioners, it was noted that some of them were not approaching their counsel and their names were accordingly sought to be deleted. The amended memo of parties was filed. The name of the present petitioner Shyam Murari was admittedly deleted from that list. He did not wish to press for any relief.

The present writ petition came to be filed in January, 2016. The submission of the petitioner is that he had in fact filed an earlier petition in September, 2015 but because of certain defects, the same

had to be withdrawn. Additional contention of the petitioner is that out of 30 petitioners whose petitions were being pressed in W.P. (C) No. 4681/2011, 24 have been granted relief by giving them alternate sites. These orders were passed in separate LPA No.141/2015 decided on 13.03.2015 as also in LPA No. 563/2015 decided on 25.08.2015.

Learned counsel for the respondent, per contra, submits that out of the joint 51 petitioners who had filed their petition (W.P. (C) No. 4681/2011), admittedly the petitioner Shyam Murari had given up his claim on 04.04.2014. He has now approached this Court almost two years later i.e. in January, 2016. His name should not be considered. Additional submission of the Department is that those persons who had preferred their LPAs after a delay of 204 days have also suffered an order of dismissal and attention has been drawn to the order of the Division Bench in LPA No. 651/2015 titled Mazhar Ali and Others Vs. South Delhi Municipal Corporation and Others dated 30.09.2015. The LPA Court had dismissed this petition nothing that those petitioners had approached the Court after a delay of 204 days and by putting the blame only on one Prem Singh (the original petitioner of W.P. (C) No.4681/2011), the appellants could not absolve themselves of the responsibility which they owed to themselves by keeping in touch with the said Prem Singh and to find out as to what had happened to their case. This judgment in LPA No. 651/2015 which had dismissed the plea of these appellants would squarely apply to the case of the instant petitioner. The case of the petitioner is in fact much worse. He has approached this Court after almost 545 days.

He had not pressed his petition on 04.04.2014 and his name was ordered to be deleted. It is relevant to note that the same counsel Mr. R.K. Mishra had appeared for him on 04.04.2014 and even today the petitioner Shyam Murari is represented by Mr. R.K. Mishra. Approaching this Court after a period of 545 days and seeking the same relief which he had given up consciously and voluntarily on 04.04.2014 does not entitle the petitioner to any sympathy from this Court. This is more so in view of the contention of the respondent that in view of the promulgation of the Street Vendors (Protection of Livelihood and Regulation of Street Vending) Act, 2014, the procedure contained therein has to be followed and attention has been drawn to the directions passed in Bhola Ram Patel Vs. NDMC in LPA No.136/2016 decided on 18.05.2016.

The contention of the learned counsel for the petitioner on this score is that the Division Bench of this Court in W.P. (C) No. 6622/2015 titled Janodaya Ekta Samiti (Regd.) Vs. Govt of NCT of Delhi and Others has passed certain directions on 8.8.2016 staying the scheme which has been promulgated under Street Vendors (Protection of Livelihood and Regulation of Street Vending) Act, 2014 and the next date in that petition is fixed is 08.09.2016; as on date no Town Vending Committees (TVC) are functional.

This submission made by the learned counsel for the petitioner would not really help the case of the petitioner as this Court is of the view that the petitioner's case is liable to be dismissed primarily on the ground of delay and laches. He has admittedly approached this Court for the same relief which he had consciously given up on

04.04.2014. On 21.01.2016 i.e. after a delay of 545 days for which there is no justification whatsoever he has again approached the Court. This prayer at this stage cannot be considered.

However, the petitioner has admittedly been not squatting at the site now since 2009. His plea for an alternate site cannot be considered at this stage.

Petition is without any merit. Dismissed.

INDERMEET KAUR, J

AUGUST 09, 2016

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