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IN THE HIGH COURT OF DELHI AT NEW DELHI

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W.P.(C) 1427/2014 & C.M. No.2962/2014

RESIDENTS WELFARE ASSOCIATION INDERPURI (REGD.)

..... Petitioners

Through Mr. Umang Shankar, Advocate

versus

UNION OF INDIA & ORS

..... Respondents

Through

Mr. Ajjay Aroraa and Mr. Kapil
Dutta, Advocates for MCD

Mr. Muksh Kumar, Advocate for R-2
and R-4

CORAM:

HON'BLE MS. JUSTICE INDERMEET KAUR

ORDER

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29.08.2016

Petitioners before this Court are Residents Welfare Association Inderpuri (Regd.) Petition being filed through its President Brigadier (Rtd) Ajay Kumar Kalia. Contention is that Veer Ravindra Kaura Park (also known as Khadda Wala Park) behind RB Block is surrounded by RA Block, Inderpuri; it is a housing area park, surrounded on all sides of residential house. This park is being booked on line by residents of other blocks or colonies for marriage and other public functions and ceremonies which is a source of major disturbance in the area. Loud speakers and Disc Jockey's (DJs) are being used during these functions. Parking of the private vehicles becomes difficult and the residents are highly inconvenienced by these activities. Littering is caused by the uncontrolled spilling of leftover food and other materials and this littering also attracts swarm of flies, cows and stray dogs in the park posing a serious health hazard to the residents. Ugly scenes are also created on some

occasions which are detrimental to the social fabric of a residential colony. Use of this park is not an activity which is permissible in terms of Master Plan Delhi (MPD) 2021. It is further submitted that two community centres were earlier in construction and are now constructed fully and they can be used for the aforementioned purposes, if so required.

Counsel for the petitioner has placed reliance upon the judgment of the Apex Court in 1997 (6) SCALE (SP) M.C.Mehta Vs. Union of India & Ors. wherein the question which had arisen for the decision on the user of parks in residential colonies, the Apex Court had noted that the corporation had stated by December 1997 the user of the parks for marriage etc. will be reduced and the stoppage of the user of these parks for the said purpose would in fact be also carried out in a phased manner. Submission of the petitioner is that this judgment clearly states that these parks cannot be used for social functions, in fact marriages. This is against the user of the park as stipulated in the MPD 2021.

Counter affidavit has been filed by the respondent no.3, Corporation. The short affidavit of Deputy Director, Horticulture has been perused. In this affidavit it is stated that this is the only park which is booked for functions in the Inderpuri Extension area. It is admitted that every month approximately 10 marriage functions take place which is during the marriage season. It is admitted that one community hall is functional.

Counsel for the petitioner submits that as on date two community halls are functional. This Court notes that para wise reply

to the writ petition has not been filed and the contentions and averments in the writ petition are not disputed.

It is also not in dispute that in view of the judgment of M.C.Mehta (supra) (where the respondent Municipal Corporation of Delhi was also a party which is now (North Delhi Municipal Corporation) the Apex Court had held that the user of these parks for marriages etc. shall be reduced by the end of December 1997 up to 50% and thereafter a subsequent order passed in the same writ petition (on an interim application Nos. 1855-56) the Apex Court had in para 10 noted as under:

“10. Almost ten years have passed and nothing has been placed on record as to what steps have been taken in stopping the use of the parks for the aforesaid purposes in a phased manner and to bring back the parks for the normal permissible use. One method of doing that could be construction of more community halls. There is nothing on record as to whether any further community halls have been constructed or not. Prima facie, one should have thought about ten years’ period is sufficient to stop the user in a phased manner. Instead of that, the user, insofar as MCD in particular is concerned, as increased. In 1996, there were 1023 parks. The court keeping in view the interest of the society permitted fifty per cent of the parks to be used for marriages, etc which means that by 31.12.1997, only 512 parks could be used for marriages, etc. and then further steps taken on year-to-year basis to stop the user altogether in a phased manner. Instead of that, MCD admits that as of now 746 parks are being used for marriages, etc. It is far from complying with the order of the court.

It is wholly irrelevant to state that since total number of parks in 1996 was 12,000 and the number has gone up to 14,000, it can increase the parks to be used for such purposes. If the number of parks has gone up, the population in the city has also increased considerably. Be that as it may, the temporary permission granted is to be read with the direction about stopping the user altogether in a phased manner. No permission was taken by MCD from the court to permit more than 512 parks to be used for marriage purposes.”

This Court is thus of the view that the case of the petitioner must be accepted. The park cannot be permitted to be used for commercial activities. Outsiders not living in the colony cannot book it for their use. This would be against the ratio of the order passed by the Apex Court in M.C.Mehta which had granted only temporary permission for the usage of the parks for marriage functions etc. and which had to be stopped altogether in a phased manner. Counsel for the respondent also has no objection if the user of this park for social functions is stopped. He however submits that since bookings have already been made the same may be permitted to be honoured. Petitioner has no objection on this score. It is however made clear that no further booking for any purpose shall be made qua this park. It is ordered accordingly.

Petition disposed of in the above terms.

Order dasti under signatures of Court Master.

INDERMEET KAUR, J

AUGUST 29, 2016/gb