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

+ **W.P.(C) 1215/2016**

MAHESH KUMAR AND ANR

..... Petitioners

Through: Mr. Rajesh Cheetri with Mr. Rajeev
Chhetri & Ms. Meenakshi Rawat,
Advts.

Versus

NDMC

..... Respondent

Through: Mr. Harsha Peechara & Mr.
Mananjay Mishra, Advts.

CORAM:

HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW

ORDER

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16.02.2016

1. The two petitioners claim to be street vending opposite shops No.77 and 88 respectively, Sarojini Nagar Market, New Delhi and claim to have applied on 4th December, 2005 for squatting rights under the New Delhi Municipal Council (NDMC) Urban Street Vending Scheme and have filed this petition to restrain the respondent NDMC from dispossessing them from their respective squatting sites till their applications for squatting rights are considered by the Town Vending Committee under the Street Vendors (Protection of Livelihood and Regulation of Street Vending) Act, 2014 which has since come into force.
2. Attention of the counsel for the petitioners has been drawn to ***Brahm Pal Vs. New Delhi Municipal Council*** MANU/DE/1942/2015 and to ***Rajnesh Vs. South Delhi Municipal Corporation*** MANU/DE/2656/2015 dealing with such petitions and following which orders several other orders

have been passed. Though the order in ***Rajnesh*** supra and other connected petitions was subject matter of appeals before the Division Bench which has vide order dated 6th November, 2015 set aside the order and remanded the petitions to the Single Judge and which are now listed on 23rd February, 2016 but what prevailed with the Division Bench was the fact that the appellant / petitioners before the Division Bench were having favourable orders in their favour from the erstwhile Zonal Vending Committee as also the Appellate Authority. That is not the case of the petitioners herein. Rather the petitioners claim to have applied for the first time only in the year 2005.

3. I may in this regard mention that the Street Vendors Act does not give any preferential rights to those who had been found eligible for street vending under the earlier regime and the Rules thereunder have been notified recently only.

4. I am of the view that without verification, if the persons such as the petitioners herein are granted protection, the same would come in the way of the Town Vending Committee constituted under the new Act also performing its functions and would lead to chaos on the streets. Moreover, there is already protection contained in the Act and for this reason also no need for an order of the Court is felt.

5. The counsel for the petitioners draws attention to the order dated 17th October, 2011 of Justice J.P. Singh (Retd.), Appellate Authority constituted by the High Court on the directions of the Supreme Court under the era prevalent prior to the coming into force of the Street Vendors Act and whereby protection was granted to the petitioner therein.

6. Neither is the said order binding on this court nor the same today has any relevance after the coming into force of the Street Vendors Act. The Street Vendors Act by Section 3(3) thereof has provided protection and this Court without there being anything to show that the person claiming to be street vending at the site claimed since prior to coming into force of the Street Vendors Act and was doing so lawfully, cannot issue any directions, which would cause mayhem and chaos on the roads.

7. In the light of the consistent view of this Court in all the other petitions, no question of entertaining this petition is made out.

Dismissed.

No costs.

8. It is clarified that this order will not come in the way of the petitioners approaching the Town Vending Committee which is now nearing constitution and for consideration of their case in accordance with law.

9. At this stage, the counsel for the petitioners seeks to withdraw the petition.

10. Dismissed as withdrawn.

No costs.

RAJIV SAHAI ENDLAW, J

FEBRUARY 16, 2016

‘gsr’..