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

+ W.P.(C) 2172/2016 & CM No.9308/2016 (for interim relief)

SURESH BABU

..... Petitioner

Through: Mr. Satish Kumar Tripathi, Adv.

Versus

NEW DELHI MUNICIPAL COUNCIL

..... Respondent

Through: Mr. Anil Grover, Mr. Vishal Vij and
Mr. Mananjay Mishra, Advs.

CORAM:

HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW

ORDER

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14.03.2016

1. The petition seeks a mandamus to the respondent New Delhi Municipal Council (NDMC) to restore to the petitioner the street vending site at / near Delhi Public Library adjacent to Shops No.11 & 129, Sarojini Nagar Market, New Delhi from which the petitioner claims to have been dispossessed on 11th October, 2015.

2. This Court in a large number of petitions coming up before it with similar reliefs has not been granting the relief or protection as has been sought herein. In several of the orders in such petitions, detailed reasoning has been given and the last of such orders being order dated 19th February, 2016 in W.P.(C) No.1415/2016 titled ***Akhilesh Kumar Vs. New Delhi Municipal Council.***

3. The counsel for the petitioner however contends that the petitioner herein has to be treated differently. Attention is invited to the order dated 1st November, 2012 in W.P.(C) No.5851/2012 filed by the petitioner and vide which NDMC was restrained from dispossessing the petitioner, for the reason of the name of the petitioner finding mention in the list of 628 successful vendors.

4. The counsel for the respondent NDMC appearing on advance notice however invites attention to the subsequent order dated 12th February, 2013 in the said writ petition vide which the writ petition was dismissed as not pressed.

5. The counsel for the petitioner contends that the petition was dismissed as not pressed in view of the order dated 31st January, 2013 of the Supreme Court at page 30 of the paper book requesting the High Courts not to entertain any petition by or against hawkers and street vendors. He further contends that the petitioner was thereafter protected by the said order dated 31st January, 2013 of the Supreme Court.

6. On enquiry, it is informed that the order dated 31st January, 2013 ultimately culminated in the judgment in ***Maharashtra Ekta Hawkers Union Vs. Municipal Corporation, Greater Mumbai*** 2013 (11) SCALE 329 and vide which all existing street vendors were granted protection.

7. The counsel for the respondent NDMC rightly points out that the same was till a new legislation was brought in force and which has been brought out in the form of the Street Vendors (Protection of Livelihood and Regulation of Street Vending) Act, 2014 (Street Vendors Act) and thus

protection aforesaid by Supreme Court in judgement supra is not available today and was not available when the petitioner was dispossessed.

8. The counsel for the petitioner then contends that the petitioner thereafter is protected by Section 3(3) of the Street Vendors Act.

9. Once that is so, then the petitioner falls in the class of cases as aforementioned and in which no relief has been granted.

10. It thus cannot be said that the petitioner is required to be treated any different.

11. Dismissed.

14. Liberty is however given to the petitioner to, in accordance with law, apply to the Town Vending Committee constituted under the Street Vendors Act.

RAJIV SAHAI ENDLAW, J.

MARCH 14, 2016

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