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

+ W.P.(C) 2238/2016 and CM Appl. No. 9670/2016

MUKHTAR ALI

..... Petitioner

Through Mr. Ramesh K. Mishra, Adv.

versus

SOUTH DELHI MUNICIPAL
CORPORATION AND ANR

..... Respondents

Through Ms. Manorma Masih, Adv. for
SDMC

CORAM:

HON'BLE MR. JUSTICE A.K. PATHAK

ORDER

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16.03.2016

Petitioner has alleged that he is a squatter/vendor near McDonalds, PVR Complex, Saket, New Delhi. Petitioner alleges that a Town Vending Committee under the Street Vendors (Protection of Livelihood and Regulation of Street Vending) Act, 2014 (for short, 'the Act') has not yet been constituted, but respondent no. 1 is removing him from his hawking site. It is contended that under Section 3(3) of the Act, protection is granted to the street vendors from eviction, till survey is done and petitioner is relocated. It is prayed that respondent no. 1 be restrained from removing the petitioner from his respective hawking site.

It may be noted that various factual aspects have to be considered in

such like matters. Whether petitioner is squatting at the place, which he alleges to have been squatting is one of the important factors to be considered. Whether the said vending activity causes any obstruction in the free movements on the streets/pavements by the pedestrians and/or vehicles; is another factor to be considered. Security perspective has also to be kept in mind. All these questions can be ascertained by the concerned authority under the Act.

Section 3 of the Act reads as under:-

“3(1) The Town Vending Committee shall, within such period and in such manner as may be specified in the scheme, conduct a survey of all existing street vendors, within the area under its jurisdiction, and subsequent survey shall be carried out at least once in every five years.

(2) The Town Vending Committee shall ensure that all existing street vendors, identified in the survey, are accommodated in the vending zones subject to a norm conforming to two and half per cent. of the population of the ward or zone or town or city, as the case may be, in accordance with the plan for street vending and the holding capacity of the vending zones.

(3) No street vendor shall be evicted or, as the case may be, relocated till the survey specified under sub-section (1) has been completed and the certificate of vending is issued to all street vendors.”

Respondents are expected to abide by the laws of the land and no directions in this regard are necessary, inasmuch as, counsels for the

respondents submit that no such action, in contravention of Section 3(3) of the Act, is being taken.

It may further be noted that a Division Bench of this Court vide order dated 20th August, 2014 passed in W.P. (C) 4303/2014 tilted *National Association of Street Vendors of India vs. South Delhi Municipal Corporation and Ors.* has observed thus:-

“Furthermore, insofar as street vending is concerned, the subject matter is entirely covered by the Street Vendors Act, 2014. The rights and obligations of street vendors, requirements of cleanliness and public hygiene as well as the formation of the Town Vending Committees have been specified in the said Street Vendors Act, 2014. Chapter 8 of the said Act also provides for the prevention of harassment of street vendors. Section 3 of the said Act provides for the conduct of a survey and Section 3 (3) thereof stipulates that no street vendor shall be evicted till the survey has been completed. It is an admitted position that the survey has not yet been completed. Therefore, the provisions of Section 3(3) of the Street Vendors Act, 2014 shall be applicable and no street vendor can be evicted. Section 33 of the Street Vendors Act, 2014 also gives it overriding effect over other laws.”

Accordingly, no further orders are required to be passed in this writ petition and the same is disposed of with the above observations. Miscellaneous application is disposed of as infructuous.

A.K. PATHAK, J.

MARCH 16, 2016/rb