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

+ **CONT.CAS(C) 393/2007**

SHER SINGH & ORS.

..... Petitioners

Through: Mr. Kuldeep Kumar, Adv.

versus

RAMESH CHANDRA & ORS.

..... Respondents

Through: Ms. Sakshi Popli & Mr. Jitendra Kr. Tripathi, Advs. for NDMC.

Ms. Suparna Srivastava, Adv. for UOI.

Mr. P. Chauhan, Adv. for DUSIB.

Mr. Sanjay Ghose, Adv. for GNCTD.

AND

+ **W.P.(C) 5101/2007, CMs No.9495/2007 (for stay), 2128/2014 (for directions), 18169/2014 (for directions), 18173/2014 (u/O I R-10 CPC), 3895/2015 (for directions) 8348/2015 (for filing additional documents), 31154/2015 (of R-4 for condonation of delay) & 2096/2016 (for exemption)**

SHER SINGH & ORS.

..... Petitioners

Through: Mr. P.K. Behera with Ms. Barkha Sharma & Ms. R.K. Radhapyari, Advs.

Versus

N.D.M.C. & ORS.

..... Respondents

Through: Ms. Sakshi Popli & Mr. Jitendra Kr. Tripathi, Advs. for NDMC.

Ms. Suparna Srivastava, Adv. for UOI.

Mr. P. Chauhan, Adv. for DUSIB.

Mr. Sanjay Ghose, Adv. for GNCTD.

CORAM:

HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW

ORDER

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20.01.2016

1. The writ petition was filed to restrain the respondents from disturbing the jhuggi jhopri cluster of which the petitioners claimed to be

residents of Nathu Ki Bagichi, Panchkuan Road, New Delhi and also seeking mandamus for re-location / rehabilitation of the petitioners.

2. Though as per the amended memo of parties, there are 12 petitioners but the counsel for the petitioners no.1 to 9 and the counsel for the petitioner no.10 state that the name of the petitioner no.10 has again been mentioned as petitioner no.11. None appears for the petitioner no.12. The writ petition as far as petitioner no.12 is concerned is dismissed.

3. Cont.Cas(C) No.393/2007 has been filed alleging violation of the order dated 17th July, 2007 in the writ petition of *status quo* by, dispossession of the petitioners during the pendency of the writ petition.

4. The counsel for the petitioners no.1 to 9 on enquiry whether as of today the petitioners no.1 to 9 are in possession of the subject land states that the petitioners were dispossessed in violation of the Court order and are as of today outside the said land though claim a right to be put back into possession.

5. The same is the stand of the counsel for the petitioner no.10.

6. *De hors* the contempt case, I have put to the counsels whether not the only order possible in the petition is of a direction for conduct of survey to determine the claims of the petitioners for rehabilitation / relocation in accordance with the policy of the Government of NCT of Delhi (GNCTD).

7. The counsel for the Delhi Urban Shelter Improvement Board (DUSIB) draws attention to para no.6 of the writ petition where it is pleaded that the land on which the petitioners had encroached / set up their jhuggi jhopri belongs to Shri Sanatan Dharam Sabha, Laxmi Narain Temple Trust, New Delhi and states that the Policy of relocation / rehabilitation is only

with respect to those dispossessed from public lands and not for those dispossessed from private land.

8. The counsel for the petitioners no.1 to 9 states that though the lease of the land was in the name of Shri Sanatan Dharam Sabha, Laxmi Narain Temple Trust but has since lapsed and now the land belongs to the respondent No.2 Land & Development Office (L&DO).

9. The counsel for the petitioner no.10 states that a part of the land belongs to Shri Sanatan Dharam Sabha, Laxmi Narain Temple Trust and the remaining land is owned by the petitioners.

10. If that be the case of the petitioner no.10 i.e. he claims to be the owner of the land, he cannot claim rehabilitation / relocation and his remedy is to file a suit for declaration of his title to the said land.

11. The counsel for the petitioner no.10 states that the petitioner no.10 is in fact very soon going to file the said suit.

12. In this view of the matter, the petition qua petitioner no.10 is dismissed.

13. The counsel for the Union of India (UOI) / L&DO states that the perpetual lease to the subject land was granted in favour of Shri Sanatan Dharam Sabha, Laxmi Narain Temple Trust aforesaid strictly for religious purpose without permission for any commercial activity in the form of shops etc.

14. Faced therewith, the counsel for the petitioners no.1 to 9 states that it is not the case of the petitioners in para no.6 that the land belongs to Shri Sanatan Dharam Sabha, Laxmi Narain Temple Trust. He contends that the same was the stand of the New Delhi Municipal Council (NDMC) in the

show cause notice referred to in para no.6 of the petition.

15. However a perusal of the show cause notice at page 20 of the paper book does not show it to be so. Even otherwise on a reading of para no.6 of the petition, it is unambiguous that it is the case of the petitioners that the land belongs to Shri Sanatan Dharam Sabha, Laxmi Narain Temple Trust. It thus does not qualify as public land with respect to jhuggi jhopri clusters whereon there is a Scheme of the GNCTD for relocation.

16. There is thus no merit in the petition.

17. As far as the applications of the petitioners in the writ petition for being put back into possession of the said land are concerned, once it is found that the petitioners neither have any title to the land or any right of relocation, the question of allowing the petitioners to again encroach upon the subject land does not arise particularly when the land itself is meant for religious purpose.

Dismissed.

No costs.

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18. Dismissed as not pressed.

No costs.

RAJIV SAHAI ENDLAW, J

JANUARY 20, 2016

‘gsr’..