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

+ LPA 392/2016

MUSTAFA AND OTHERS

..... Appellants

Through Mr. N.K. Sahoo & Ms. S.B. Sahoo,
Advocates.

versus

NEW DELHI MUNICIPAL COUNCIL & ORS. Respondents

Through Mr. Sri Harsha Peechara & Mr.
Mananjay Mishra, Advocates for NDMC.

CORAM:

HON'BLE MR. JUSTICE SANJIV KHANNA

HON'BLE MS. JUSTICE SUNITA GUPTA

ORDER

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11.07.2016

CM Nos. 23876/2016 & 23877/2016

Exemption applications are allowed, subject to all just exceptions.

CM No. 23875/2016

There is 68 days delay in filing of the Letters Patent Appeal. Appellants are squatters and hawkers, who are differently-abled. The application for condonation of delay is not opposed. Delay in filing of the Letters Patent Appeal is condoned.

CM No. 23878/2016 & LPA No. 392/2016

Learned counsel for the parties state that the matter is covered by the decision of Division Bench of this Court in LPA No. 136/2016, ***Bhola Ram Patel versus New Delhi Municipal Council and Another*** and other connected appeals decided on 18th May, 2016. A copy of the said judgment has been filed in the Court. In view of the aforesaid position, the present appeal is disposed of for the reasons given in ***Bhola Ram Patel*** (supra) and with the following directions:-

- (1) The concerned TVC (i.e., Town Vending Committee) exercising jurisdiction over NDMC areas shall proceed to conduct the survey in accordance with the Scheme, i.e., with respect to identification of specific sites/spaces and complete it within two months from today.
- (2) All pre-existing “right holders” - now defined as street vendors (whether called as tehbazari licensees etc.) shall not be disturbed except to the extent that the TVC determines that space or place occupied by them is prima facie not in accordance with paragraph 2.1.17 - 2.1.22.
- (3) In case the TVC is of the opinion that any street vendor in terms of the above directions has to be displaced, the principle of “last come first go”, i.e., chronological seniority shall be followed.

(4) The task of compiling the eligible applicants shall be first preceded by an appropriate advertisement and thereafter proceed to allot the specific or particular space to the street vendors, in terms of the Act, Rules or Scheme.

(5) The authorities are at liberty to ensure that the walk way in all the NDMC areas shall be in conformity with the paragraph 2.1.22, i.e., two meter width on the footpath would be left. At the same time, while removing or evicting any existing street vendor, the NDMC shall also ensure that the principle of seniority - referred to earlier in terms of rights of existing holders is maintained. If no document or evidence of long use exists, it is open to the NDMC to remove those obstructing such footpath or way.

Application for stay is also disposed of accordingly.

No costs.

SANJIV KHANNA, J.

SUNITA GUPTA, J.

JULY 11, 2016
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