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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ W.P.(C) 6267/2014
SAMEER KHANDELWAL Petitioner
Through: Ms. Jasmine Kottai, Adv.
versus

SOUTH DELHI MUNICIPAL CORPORATION &
ORS Respondents
Through: Mr. Ajay Diggpaul and Mr. Kunal
Gosain, Advs. for R-1.
Ms. Sunita Bansal and Mr. Uday
Chauhan, Advs. for R-2 to R-4.
Mr. Parvinder Chauhan and Mr.
Nishant Prateek, Advs. for R-
5/DUSIB.

CORAM:
HON'BLE MR. JUSTICE A.K. PATHAK

ORDER
% **01.02.2016**

By this writ petition under Article 226 of the Constitution of India, petitioner has prayed that respondents be directed to remove unauthorised temporary structure/encroachment on the pavement in front of their factory.

As per the respondents, Mobile Toilet Vans (MTVs) have been parked for the use and benefit of residents of JJ Cluster, situated across the road. It is also their case that MTVs have not been parked in front of the gate of petitioner's factory and, in fact, the same are in the rear side. A perusal of order dated 13th April, 2015 makes it clear that MTVs have not been parked in front of the factory of the petitioner. It is also mentioned in

the said order that front portion of the factory is clear and free from any impediment. In the facts and circumstances of the case the Court passed following directions :-

“5.1 Accordingly, respondent no.1, is charged with the responsibility to render necessary civic services, and to ensure that the area, in and around MTVs, is kept clean. The concerned municipal inspector is thus made responsible in that behalf.

5.2 The DUSIB, in turn, will ensure the cleanliness of the MTVs. In addition, the concerned officer of the DUSIB will also maintain a vigil, and if, the subject area is found to be filthy, the matter will be brought to the attention of the concerned inspector, in respondent no.1, and if due care is not taken by him, the issue will be escalated to his superiors.”

Status reports have been filed. Respondent no.1 made a categorical assertion in the report that area has been cleaned. Photographs have also been filed, which indicate that there is no filth scattered around the MTVs. Learned counsel for respondent no.1 submits that in future also area would be kept clean.

So far as MTVs are concerned, the same have been parked by the respondent no. 5, for the use and benefit of the residents of the JJ Cluster and in larger interest. In case MTVs are removed, inhabitants of JJ Cluster will have no other option but to defecate in open, which itself would be a health hazard. Respondent no. 5 has categorically stated in its counter

affidavit that the place where the MTVs are located is the best suited place since the outlet of MTVs are connected to the nearby sewage.

In view of the above, present writ petition is disposed of in terms of the directions 5.1 and 5.2, as contained in the order dated 13th April, 2015. However, respondent no.1 shall ensure that area is kept clean. As regards respondent no. 5, it shall maintain the MTVs properly.

Dasti.

A.K. PATHAK, J.

FEBRUARY 01, 2016

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