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

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LPA 527/2016

Date of decision: 23rd September, 2016

SHYAM MURARI

..... Appellant

Through

Mr. Ramesh K. Mishra, Advocate.

versus

SOUTH DELHI MUNICIPAL CORPORATION & ORS

..... Respondent

Through

Ms. Reema Khorana, Advocate for
SDMC.

Mr. Santosh Kumar Tripathi, ASC, GNCTD.

CORAM:

HON'BLE MR. JUSTICE SANJIV KHANNA

HON'BLE MS. JUSTICE SUNITA GUPTA

SANJIV KHANNA, J. (ORAL)

The appellant Shyam Murari impugns order dated 9th August, 2016 whereby his W.P.(C) No.942/2016 has been dismissed on the ground of delay and laches.

2. The appellant claims that he was holder of permanent *tehbazari* rights granted by the Municipal Corporation of Delhi at a site near Prem Nagar Nala. In October, 2009, the appellant was evicted from the said site as the said site was required for road widening project for the ensuing Common Wealth Games. The appellant was allocated a site

identified at Madanpur Khadar. The appellant was aggrieved and did not prefer the said site and had along with 50 others filed W.P. (C) No.4681/2011, titled ***Prem Singh and Ors. Vs. Municipal Corporation of Delhi & Ors.*** During the pendency of the said writ petition, the appellant lost interest and the counsel appearing for the petitioners in W.P. (C) No.4681/2011, titled ***Prem Singh and Ors. Vs. Municipal Corporation of Delhi & Ors.***, had made a statement that he was not getting any instructions from the present appellant and some others and accordingly, their names were deleted as one the co-petitioners. Amended memo of parties was filed.

3. W.P. (C) No.4681/2011, titled ***Prem Singh and Ors. Vs. Municipal Corporation of Delhi & Ors.*** was dismissed by the single Judge vide order dated 15th January, 2015.

4. Prem Singh, the first petitioner in the said writ petition individually filed LPA No.141/2015, which was heard and allowed vide decision dated 13th March, 2015 directing as an interim measure that Prem Singh would be given temporary *tehbazari* rights in an area which has the features of a natural marked. This allocation of temporary *tehbazari* rights would not confer any right of permanent *tehbazari* at

the said place and that when the Town Vending Committee is constituted, Prem Singh would have to file a claim before the Committee concerned.

5. After the aforesaid order was passed by the Division Bench, some LPAs were filed and identical orders were passed.

6. However, the same Division Bench vide order dated 30th September, 2015 dismissed LPA No.651/2015 titled ***Mazhar Ali & Ors. Vs. South Delhi Municipal Corporation & Ors***, filed by some of the petitioners in W.P. (C) No.4681/2011 by refusing to condone the delay of 204 days. It was observed that sufficient cause was not shown for the delay to be condoned.

7. The present case is clearly covered by the decision of the Division Bench in Mazhar Ali (supra) and not by the earlier order of the Division Bench in the case of Prem Singh (supra). In the present case, the appellant was deleted as a co-petitioner vide order dated 04th April, 2014. The appellant did not take any step whatsoever for nearly a period of 18 months. Thereafter, he along with some others has filed W.P. (C) No.10234/2015 on 11th October, 2015. This writ petition was dismissed on the ground that the petitioners therein should set up their

individual claims. Pursuant to the liberty granted, the appellant had then filed W.P. (C) No.942/2016 on 22nd January, 2016. Thus, the appellant has not been vending as a street vendor since 2009.

8. Looking at the long delay, we do not think that the appellant is entitled to any relief. The single Judge was justified in dismissing the writ petition. The appeal is dismissed.

SANJIV KHANNA, J.

SUNITA GUPTA, J.

SEPTEMBER 23, 2016
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