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

+ W.P.(C) 11450/2015 & CM No.30252/2015 (for directions)

RAKESH KUMAR Petitioner

Through: Mr. M.N. Sahoo, Adv.

Versus

NEW DELHI MUNICIPAL COUNCL & ANR Respondents

Through: Mr. Harsh Peechara and Mr.
Mananjay Mishra, Adv.

CORAM:

HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW

ORDER

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08.02.2016

1. The petition seeks mandamus to the respondents New Delhi Municipal Council and Police to restore *status quo* as on 20th November, 2015 i.e. to allow the petitioner to squat and street vend under Pole No.15 near Railway Reservation Office, Chemsford Road, New Delhi.

2. It is the case of the petitioner that he had been vending from the said site since the year 1986 and inspite of the protection afforded under Section 3 of the Street Vendors (Protection of Livelihood and Regulation of Street Vending) Act, 2014 was dispossessed therefrom on 20th November, 2015.

3. Notice of the petition was issued and the counsel for the respondents NDMC appears.

4. The counsel for the petitioner has drawn attention to the document at page 94/94A of the paper book, being the letter written by the petitioner to

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the Directorate of Enforcement, NDMC for release of the goods which the petitioner was vending from the said site and which were seized on 20th November, 2015 and bearing the endorsement dated 23rd November, 2015, purportedly of the Area Inspector of the Police. It is argued that the same is proof of the petitioner having been dispossessed on 20th November, 2015.

5. On enquiry, whether the goods have been released to the petitioner, the counsel for the petitioner states that the same have not been.

6. The counsel for the petitioner has also drawn attention to the order dated 13th March, 2015 of the Division Bench of this Court in LPA No.141/2015 titled ***Prem Singh Vs. Municipal Corporation of Delhi*** directing temporary *tehbazari* rights to be given to the appellant in that case. It is contended that the petitioner was removed from his vending site inspite of the said order and at least two other orders of the Division Bench.

7. The Division Bench in the order dated 13th March, 2015 dealt with the rights of the appellant before it and did not issue any directions in rem, of which advantage can be drawn by the petitioner. Moreover, the Division Bench referred to the bureaucratic inefficiency in constitution of the Town Vending Committee to be constituted under the Street Vendors Act aforesaid and which Committee is required to ultimately identify the street vending sites and the persons eligible to street vend therefrom. Notice may be taken of the fact that since then the Rules under the Street Vendors Act have been framed and the Scheme of street vending has also been prepared and notified and the constitution of the Town Vending Committee is now imminent. In fact one of the reasons for delay in constitution of Town Vending Committee is the disputes as to who should be the representative of

the street vendors in the said Town Vending Committee. To overcome the said dispute, a nominated Town Vending Committee has been constituted as an interim measure.

8. In my opinion, the document filed by the petitioner is not enough to substantiate the claim of the petitioner of street vending from the said site. The counsel for the petitioner, on enquiry, states that though the petitioner had applied for a licence to the erstwhile Thareja Committee, as well as to the subsequent Zonal Vending Committee, constituted under the earlier regime, but was not granted a licence.

9. Without coming to a conclusive finding that the petitioner in fact had been street vending from the site from where he claims and that the street vending from the said site is not in violation of the rights of pedestrians and others to free movement on the road / street and the pavement, no relief virtually amounting to granting the petitioner a licence to street vend as is sought, can be granted. This is more so as the Town Vending Committee is going to be functional soon and would be initiating the process of identifying the street vending sites and the eligible vendors thereof. It would be expedient that the petitioner applies thereto.

10. In these circumstances, no merit is found in the petition.

11. Dismissed.

12. It is however clarified that this dismissal shall not come in the way of the petitioner applying on merits to the Town Vending Committee.

No costs.

Copy of this order be given *dasti*.

RAJIV SAHAI ENDLAW, J

FEBRUARY 08, 2016/bs..

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