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

+ W.P.(C) 3356/2017

ANIL KUMAR Petitioner
Through Mr.S.K.Singh, Adv. with
Ms.Renu Singh, Adv.

versus

NEW DELHI MUNICIPAL COUNCIL AND ANR Respondents
Through Mr.Sri Harsha Peechara, ASC, NDMC
with Mr.Mananjay Mishra, Mr.Chetan
Sharma & Ms.Vidhi Jain, Advs. for R-1.
Mr.Rahul Sharma, Adv. with Mr.C.K.
Bhatt, Adv. for R-2.
Mr.Ashish Mohan, Adv. with Mr.Mohit
Kumar, Adv. for Sarojini Nagar Market
Association.

CORAM:

HON'BLE MR. JUSTICE G.S.SISTANI

HON'BLE MR. JUSTICE CHANDER SHEKHAR

ORDER

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27.07.2017

This is a third round of litigation initiated by the petitioner. The petitioner claims to be a street vendor and was vending opposite Shop No.100, Sarojini Nagar Market. Petitioner also claims to be dealing in readymade garments (seasonal). Under the fear of dispossession, the petitioner approached this Court by filing a writ petition being W.P. (C) No.4212/2012. The petitioner had then submitted that his name finds mentioned in the list of 386 successful vendors and has been allotted a site at Sarojini Nagar Market. In the order of 01.11.2012, a copy whereof has been placed on record, the petitioner agreed to accept the site and resultantly, this Court directed the petitioner to appear before the

Director (Enforcement), NDMC on 09.11.2012 at 11.00 a.m. along with relevant documents, to enable the NDMC to process his case and hand over possession of the site to him. Meanwhile, this Court directed the respondent not to dispossess the petitioner from his current site. The writ petition was disposed of having regard to the fact that the site had been allotted to the petitioner by the NDMC.

Since the order was not complied with, the petitioner was forced to file a contempt petition being Cont. Cas. (C) No.15/2013. In the meanwhile notice was issued in the matter on 07.01.2013. Since the order was complied with, on 08.03.2013 the contempt petition was dismissed as not pressed.

The complaint of the petitioner in this writ petition is that he has been dispossessed in October, 2016. On the last date of hearing, an objection was raised by the counsel for NDMC that the petitioner is not a regular squatter. Since petitioner has not placed any document (challan) on record pertaining to the year 2014, it was contended that the petitioner had decided not to vend anymore and thus, no protection was granted.

Mr.S.K.Singh, learned counsel for the petitioner submits that having regard to the orders passed in the earlier writ petition and the fact that the name of the petitioner was in the larger list prepared by the NDMC comprising of 2894 street vendors and based on the larger list, draw of lots was held and the petitioner was found to be successful being at Serial No.386, a specific allotment having been made by the NDMC in his favour, would leave no room for doubt that the petitioner is a regular street vendor. Merely because he was not challaned by the NDMC in the year 2014, that cannot be a reason to say that he was not a regular street vendor; on the contrary, having been granted protection by this Court itself was the reason why he was not challaned.

At this stage, learned counsel for the NDMC submits that having regard to the peculiar facts of this case and ample documents being placed on record including Court orders, the petitioner would be accommodated at an appropriate

site.

Mr.S.K.Singh, learned counsel for the petitioner submits that the site opposite Shop No.100, Sarojini Nagar Market is still available. However, since the petitioner is not entitled to any specific site, we leave this discretion open to the respondent/NDMC which, we have no hesitation in saying, would be exercised judiciously. Let the petitioner be accommodated within a period of three weeks, as prayed by the learned counsel for respondent/NDMC.

The writ petition is accordingly disposed of.

G.S.SISTANI, J.

CHANDER SHEKHAR, J.

JULY 27, 2017/ka /