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

+ **W.P. (C) No. 3761/2017**

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Date of Judgment: 05th May, 2017

MOTI RAM

..... Petitioner

Through: Mr. Salim Malik, Advocate.

versus

NORTH DELHI MUNICIPAL CORPORATION & ORS..... Respondents

Through: Mr. Prabhat Kumar, Advocate for R-1/North Delhi Municipal Corporation with Mr. Rajesh Sehrawat, Inspector, the respondent no. 2.

Mr. Rahul Banshi, Advocate with Mr. Nishant Sharma, Advocate for R-3 and R-4.

SI Pankaj Tomar, PS Kotwali, Delhi.

CORAM:

HON'BLE MR. JUSTICE G.S.SISTANI

HON'BLE MR. JUSTICE VINOD GOEL

G.S.SISTANI, J. (ORAL)

1. The petitioner has filed the present writ petition under Article 226 of the Constitution of India seeking a direction to the respondent no. 1 North Delhi Municipal Corporation to restore the possession of his *Tehbazari* site bearing no. 17101, measuring 6' X 4' situated at Shani Mandir, Chandni Chowk, Delhi.
2. The petitioner claims that he was running his *tehbazari* site at the aforesaid location with the help of one Munna Khan as petitioner remained ill and was unable to do the entire work. It is also claimed that on 10.11.2016, the officials of the MCD had visited the site and raised an illegal demand and threatened the petitioner that in case the

demand is not fulfilled the petitioner would be dispossessed from the site in question. On 16.11.2016 an attempt was made to dispossess the petitioner, however, with the intervention of neighbours, the respondent could not succeed in their illegal motive. Another attempt was made on 01.12.2016 to dispossess the petitioner, however this attempt was again unsuccessful on account of intervention of neighbours. In this backdrop, the petitioner has filed a suit for permanent injunction, which is still pending in the trial court. However, since the petitioner was dispossessed subsequently the petitioner claims that the suit has become infructuous.

3. The respondents had entered appearance on an advance copy on the last date of hearing. Time was sought to take instructions in the matter.
4. Learned counsel for the respondents no. 1 and 2 submits that his reply is ready. He submits, on instructions, that the petitioner has concealed the material facts from this court in as much that the site in question stands sold and alienated by the petitioner first to Rajinder Singh. Original General Power of Attorney bearing signature of the petitioner with photograph and thumb impression, original Agreement to Sell and Affidavit, original possession letter, unregistered Will and a receipt evidencing payment of Rs.2,80,000/- have been produced in court, which are seen and returned. Further document showing payment of total amount of Rs.11,00,000/- bearing signature of the petitioner is also produced in court. The document stands witnessed by his children. Learned counsel for respondent no. 1 and 2 also submits that action was taken with respect to this site as there was violation of the norms. A faint attempt is also made to submit that the

site has not been sold. Counsel for the petitioner also complains that the son of Rajender Singh Naveen is illegally occupying the site. We have heard learned counsel for the parties and considered their rival submissions. Any *inter-se* dispute between the petitioner and late Rajinder Singh and his son Naveen, who is now in possession, cannot be adjudicated in these proceedings under Article 226 of the Constitution of India. Naveen has also not been impleaded as a party. The person in possession Munna Khan was removed as he could not justify his possession.

5. Counsel for the petitioner submits that there is no provision in the MCD Act, which allows any transfer or sale of the tehbazari site.
6. At this stage, learned counsel for MCD submits that they are in no way concerned in the *inter-se* disputes between the petitioner and the alleged purchaser. But in case there is no violation of the norms of the North MCD and since the petitioner is a licenced *Tehbazari* holder, he would not be dispossessed.
7. In view of the stand taken by the respondent no. 1 and 2, counsel for the petitioner submits that no further orders are required to be passed. He would seek appropriate remedy, if so advised to safeguard his interest in accordance with law.
8. The writ petition and all applications are disposed of.

G. S. SISTANI, J.

VINOD GOEL, J.

MAY 05, 2017

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