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

+ **W.P.(C) 11153/2016**

RAKESH KUMAR GREWAL & ORS Petitioners

Through: **Mr. Puneet Singh, Advocate**

versus

GOVERNMENT OF NCT OF DELHI & ORS Respondents

Through: **Ms. Swaty Singh Malik, Ms. Yaashna Thakran and Ms. Muskan Gupta,**
Advocates for R-1, 7 & 8

Mr. Rakesh Mittal, Standing Counsel for SDMC/R-6 with Mr. Kamlesh Anand and Ms. Yamini Mittal,
Advocates with **Dr. Alok Aggarwal, DD(VS)/ West Zone, SDMC/R-6**
Mr. M.K. Singh, Advocate for DDA/R-9

ASI Badlu Ram, P.S. Janak Puri

CORAM:

HON'BLE MR. JUSTICE A. K. CHAWLA

ORDER

10.11.2017

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Petitioners, approached this Court, seeking issuance of writs of mandamus, with the prayers, as follows:

“(a) Issue a writ of mandamus and / or any other appropriate writ, orders(s) and /or direction(s) directing:-

(aa) the respondent No. 6 to perform statutory duties and thereby vacating the respondent No. 2 to 5 from their illegal possession on the said MCD park;

(ab) the respondent No. 6 to stop the functioning of illegal and unlicensed stable / dairy run and managed by respondent No. 2 to 5;

(ac) the respondent No. 6 to ensure that proper and hygiene condition be maintained and no such other stable / dairy be

allowed to run in area;

(ad) the respondent No. 9 to get the said mentioned DDA Plot vacated from the illegal possession of respondent No. 2 to 5;

(ae) Pass an order directing the respondent no. 2 to 5 to cease any further harassment caused to petitioners and residents of locality by using public property for personal usage and blocking the roads and disturbing their peace of life.

(b) Award Litigation cost to the petitioners.

Issue and other appropriate writ, order and / or direction which this Hon'ble Court any deem fit and property in the facts and circumstances of the case, in the interest of the justice."

On 11th September, 2017, this Court made observations and issued directions, as follows:

"Nuisance in the subject locality on account of cattle in and around the subject residential locality is not only a cause of inconvenience but a health issue, is much agitated in the instant petition. The matter substantially relates to the alleged omission(s) and inaction(s) in discharge of the duties by the officials of South Delhi Municipal Corporation (SDMC), inasmuch as, breeding of cattle for milching or dung to be used as dung cakes, are all the issues, which need to be dealt with by the Municipality.

Learned counsel for the petitioners strenuously contends that breeding of the cattle in the subject residential locality is remaining unchecked.

Learned counsel for the respondent/SDMC, on its part, submits that repeated actions are being taken and the cattles being removed and the persons, who are indulging in either the breeding or creating nuisance by littering etc., are being challaned regularly. Learned counsel for the respondent, on instructions, is however, unable to dispute the fact that the cattle even when seized and handed over to the *goshalas* or so on, are returning in the locality and are not only straying and milched, the dung cakes are being prepared in the open areas.

Is it that the respondent/SDMC and the police are failing in their duty? This Court has no doubt that, if, both the respondent/SDMC and Delhi Police work in co-ordination, the locality can be freed of the cause of nuisances. The concerned DC (West Zone), SDMC and DCP (District West) are, therefore, directed to get an effective mechanism developed and steps taken to get the

locality free of the stray cattle and submit their respective reports with this Court, within four weeks from today.

List on 10th November, 2017.

Copy of the order be given *dasti* under the signatures of the Court Master.”

Status reports have come to be filed on behalf of respondent – SDMC and SHO, P.S. Janakpuri, respectively.

In the status report of the respondent-SDMC, it has come to be stated, as follows:

- “3. That during the action two stray cattle were found in the area and were removed by the department of Veterinary Services, West Zone. The temporary structure behind the Shiv Mandir on the govt. land and other structures were removed. The material kept by the Kabadi on the Govt. land near this temporary structure was removed. The encroachments from the parks opposite House no. 24 upto the House no. 36 were removed during the action and partition grills installed by the public in the parks were also removed. The feeding and watering mangers for the cattle built on the Govt. land along the wall of parks opposite House no. 28, 29 & 30 were demolished. A temporary structure opposite House no. 28 was demolished. A semi-permanent structure with tin shed which was built on the Govt. land opposite House no. 36, Nangli Jalib was also demolished. The cow dung accumulated on the road side was also got removed by the sanitation staff of the area. Copy of photos taken during the drive are annexed herewith as Annexure R-6/D (Colly.).
4. Furthermore, the department of Veterinary Services, West Zone has been taking regular action of removal of cattle from the area.
5. That to ensure no encroachment and nuisance continues at the site, a letter was sent to the SHO P.S Janakpuri to lodge the FIR against the persons keeping cattle and let loose them on streets under section 98 of Delhi Police Act, 1978, Section 289, 428 & 429 of Indian Penal Code and any other relevant sections in the matter including the PCA Act 1960. Further to develop a mechanism to keep the area cattle free the SHO PS Janakpuri was requested vide letter no. DD(VS)/WZ/SDMC/2017/D-907 dated 10.10.2017 to keep a regular vigil in the area and inform the department about presence of cattle for prompt action. Copies of the letters dated

03.10.2017 and 10.10.2017 are annexed herewith as Annexure R-6/E.

6. That the department has also sent request letters to Horticulture Department/West Zone, General Branch/West Zone and Maintenance Division (M-I)/WZ vide letters no. DD(VS)/WZ/SDMC/2017/D-881 dated 03.10.2017, DD(VS)/WZ/SDMC/2017/D-882 dated 03.10.2017 and DD(VS)/WZ/SDMC/2017/D-878 dated 03.10.2017 respectively to keep ward and vigil in the area/ parks and keep the area / parks encroachment free. Copy of the said letters is annexed herewith as Annexure R-6/F (Colly.). In future the department shall take fortnightly joint action with Delhi Police in the area to keep the area cattle free.”

What is stated above, finds support from the documents/photographs annexed to the report filed, by way of an affidavit.

In the status report filed by the SHO, P.S. Janakpuri, it is stated as under : -

“ In this regard, it is submitted that inquiry made to the complainant Sh. Rakesh Kumar Grewal and Suresh Kumar Grewal and their statement recorded and it was found that alleged persons are running an illegal dairy and create nuisance there. Thereafter, as per allegation action u/s 83/97 DP Act u/s 107/150 Cr.P.C. was taken against the alleged persons vide DD No. 82B dated 23/3/17 PS-Janakpuri, New Delhi.

It is further submitted that Kalandra of u/s 107/150 Cr.P.C. has been sent to the court and during the last hearing on 23.08.2017 final order was passed by Hon’ble Court of S.E.M. West District that “All respondents are present in the court. Heard. All respondents submitted compromise deed which is duly signed by all respondents and verified by Ld Counsel. All respondents have assured the court they will maintain the peace in the area. Therefore, keeping in view the above mentioned facts i hereby drop the proceedings in this case. Local police be informed accordingly. File be consigned to record. Order announced in the open court today dated 23.08.17.” It is further submitted that Kalandra u/s 83/97 D.P. Act has also been sent to the concerned court, evening court, Dwarka, New Delhi. Copy of DD entry Kalandra & Final Order enclosed.

It is further submitted that as per contents of the above said complaint, appropriate legal action has been taken against the alleged persons and matter has already been disposed by Hon’ble S.E.M. Court West District on 23.08.2017. However, the undersigned is ready

to abide by the direction passed by your Hon'ble Court.”

Police, on his part, has also thus, taken steps as above said.

Keeping in view the actions already taken and contemplated, nothing further survives in the petition. Petition is, therefore, disposed off, with the liberty to the petitioner, to approach this Court afresh, if, a fresh cause of action arises.

Petition stands disposed of accordingly.

A. K. CHAWLA, J

NOVEMBER 10, 2017

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