

\$~26 to 35 & 45

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

%

Date of Order: 25th April, 2017

+

W.P.(C) No.11592/2016

SHEETLA PRASAD GUPTA & ORS Petitioners

Through Mr.Dharmender Sharma, Adv. with
Ms.Monika Singh, Adv.

versus

NEW DELHI MUNICIPAL CORPORATION (NDMC) & ORS

..... Respondents

Through Mr.Sri Harsha Peechara, ASC, NDMC
with Mr.Mananjay Mishra &
Ms.Vidhi Jain, Advs. for NDMC
along with Mr.Narayan Kumar, ALO,
NDMC, in person.
Mr.Ashish Mohan, Adv. with
Mr.Mohit Kumar, Adv. for Sarojini
Nagar Market Association.
Mr.O.P.Agarwal, Adv. with
Mr.Deepak Agarwal, Adv. for
applicants.

+

W.P.(C) No.12016/2016

SURAJ DEV PASWAN Petitioner

Through Mr.Dharmender Sharma, Adv. with
Ms.Monika Singh, Adv.

versus

NEW DELHI MUNICIPAL CORPORATION (NDMC) & ORS

..... Respondents

Through Mr.Sri Harsha Peechara, ASC, NDMC
with Mr.Mananjay Mishra &

Ms.Vidhi Jain, Advs. for NDMC
along with Mr.Narayan Kumar, ALO,
NDMC, in person.
Ms.Jyoti Taneja, Adv. for GNCTD.
Mr.Ashish Mohan, Adv. with
Mr.Mohit Kumar, Adv. for Sarojini
Nagar Market Association.

+

W.P.(C) No.12165/2016

RAJ KUMAR SRIVASTAVA Petitioner
Through Mr.Dharmender Sharma, Adv. with
Ms.Monika Singh, Adv.
versus
NEW DELHI MUNICIPAL CORPORATION (NDMC) & ORS
..... Respondents
Through Mr.Sri Harsha Peechara, ASC, NDMC
with Mr.Mananjay Mishra &
Ms.Vidhi Jain, Advs. for NDMC
along with Mr.Narayan Kumar, ALO,
NDMC, in person.
Mr.Saurabh Chadda, Adv. with
Mr.Ishan Kashyap, Adv. for R-3.
Mr.Ashish Mohan, Adv. with
Mr.Mohit Kumar, Adv. for Sarojini
Nagar Market Association.

+

W.P.(C) No.12230/2016

PRAMOD GUPTA Petitioner
Through Mr.Dharmender Sharma, Adv. with
Ms.Monika Singh, Adv.
versus
NEW DELHI MUNICIPAL CORPORATION (NDMC) & ORS
..... Respondents
Through Mr.Sri Harsha Peechara, ASC, NDMC
with Mr.Mananjay Mishra &

Ms.Vidhi Jain, Advs. for NDMC
along with Mr.Narayan Kumar, ALO,
NDMC, in person.
Mr.Sharat Kapoor, Adv. for R-3.
Mr.Ashish Mohan, Adv. with
Mr.Mohit Kumar, Adv. for Sarojini
Nagar Market Association.

+

W.P.(C) No.1431/2017

ANIL SINGH

..... Petitioner

Through Mr.Dharmender Sharma, Adv. with
Ms.Monika Singh, Adv.

versus

NEW DELHI MUNICIPAL CORPORATION (NDMC) & ORS

..... Respondents

Through Mr.Sri Harsha Peechara, ASC, NDMC
with Mr.Mananjay Mishra &
Ms.Vidhi Jain, Advs. for NDMC
along with Mr.Narayan Kumar, ALO,
NDMC, in person.
Mr.Mukesh Kumar Singh, Adv. for
R-3/SHO.
Mr.Ashish Mohan, Adv. with
Mr.Mohit Kumar, Adv. for Sarojini
Nagar Market Association.

+

W.P.(C) No.214/2017

RAM KUMAR

..... Petitioner

Through Mr.Dharmender Sharma, Adv. with
Ms.Monika Singh, Adv.

versus

NEW DELHI MUNICIPAL CORPORATION (NDMC) & ORS

..... Respondents

Through Mr.Sri Harsha Peechara, ASC, NDMC
with Mr.Mananjay Mishra &

Ms.Vidhi Jain, Advs. for NDMC
along with Mr.Narayan Kumar, ALO,
NDMC, in person.
Ms.Jyoti Taneja, Adv. for GNCTD.
Mr.Ashish Mohan, Adv. with
Mr.Mohit Kumar, Adv. for Sarojini
Nagar Market Association.

+

W.P.(C) No.253/2017

YOGESH SRIVASTAVA Petitioner
Through Mr.Dharmender Sharma, Adv. with
Ms.Monika Singh, Adv.
versus
NEW DELHI MUNICIPAL CORPORATION (NDMC) & ORS
..... Respondents
Through Mr.Sri Harsha Peechara, ASC, NDMC
with Mr.Mananjay Mishra &
Ms.Vidhi Jain, Advs. for NDMC
along with Mr.Narayan Kumar, ALO,
NDMC, in person.
Mr.Saurabh Chadda, Adv. with
Mr.Ishan Kashyap, Adv. for R-3.
Mr.Ashish Mohan, Adv. with
Mr.Mohit Kumar, Adv. for Sarojini
Nagar Market Association.

+

W.P.(C) No.282/2017

MANOHAR LAL AND ORS Petitioners
Through Mr.Dharmender Sharma, Adv. with
Ms.Monika Singh, Adv.
versus

NEW DELHI MUNICIPAL CORPORATION (NDMC) & ORS

..... Respondents

Through Mr.Sri Harsha Peechara, ASC, NDMC
with Mr.Mananjay Mishra &
Ms.Vidhi Jain, Adv. for NDMC
along with Mr.Narayan Kumar, ALO,
NDMC, in person.
Mr.Mukesh Kumar Singh, Adv. for
R-3/SHO.
Mr.Ashish Mohan, Adv. with
Mr.Mohit Kumar, Adv. for Sarojini
Nagar Market Association.

+

W.P.(C) No.294/2017

MOHD. AHSAN

..... Petitioner

Through Mr.Dharmender Sharma, Adv. with
Ms.Monika Singh, Adv.

versus

NEW DELHI MUNICIPAL CORPORATION (NDMC) & ORS

..... Respondents

Through Mr.Sri Harsha Peechara, ASC, NDMC
with Mr.Mananjay Mishra &
Ms.Vidhi Jain, Adv. for NDMC
along with Mr.Narayan Kumar, ALO,
NDMC, in person.
Mr.Varun Nischal, Adv. for Delhi
Police.
Mr.Ashish Mohan, Adv. with
Mr.Mohit Kumar, Adv. for Sarojini
Nagar Market Association.
Mr.O.P.Agarwal, Adv. with
Mr.Deepak Agarwal, Adv. for
applicants.

+

W.P.(C) No.850/2017

VIRENDER AND ORS

..... Petitioners

Through Mr.Dharmender Sharma, Adv. with
Ms.Monika Singh, Adv.

versus

NEW DELHI MUNICIPAL CORPORATION (NDMC) & ORS

..... Respondents

Through Mr.Sri Harsha Peechara, ASC, NDMC
with Mr.Mananjay Mishra &
Ms.Vidhi Jain, Advs. for NDMC
along with Mr.Narayan Kumar, ALO,
NDMC, in person.
Mr.Ashish Mohan, Adv. with
Mr.Mohit Kumar, Adv. for Sarojini
Nagar Market Association.

+

W.P.(C) No.11192/2016

RAMESH CHAND

..... Petitioner

Through Mr.N.K.Sahoo, Adv. with
Ms.S.B.Sahoo, Adv.

versus

NEW DELHI MUNICIPAL CORPORATION (NDMC) & ANR

..... Respondents

Through Mr.Sri Harsha Peechara, ASC, NDMC
with Mr.Mananjay Mishra &
Ms.Vidhi Jain, Advs. for NDMC
along with Mr.Narayan Kumar, ALO,
NDMC, in person.
Ms.Iram Majid, Adv. for R-2/SHO.
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 VINOD GOEL**

G.S.SISTANI, J. (ORAL)

**C.M. No.15624/2017 (u/o 1 R.10 CPC, by applicant Raj Kumar Gupta)
& C.M. No.15625/2017 (u/o 1 R.10 CPC, by applicant Raj Kamal
Gupta) in W.P. (C) No.11592/2016 and**

**C.M. No.15622/2017 (u/o 1 R.10 CPC, by applicant Rakesh Pal) & C.M.
No.15623/2017 (u/o 1 R.10 CPC, by applicant Rajesh Paul) in W.P. (C)
No.294/2017**

1. These are four applications; two filed by applicants Raj Kumar Gupta and Raj Kamal Gupta, owners of Shop No.37 (in W.P. (C) No.11592/2016) and the other two filed by applicants Rakesh Pal and Rajesh Paul, owners of Shop No.36 (in W.P. (C) No.294/2017), seeking their impleadment in the respective writ petitions.
2. Common grounds have been raised in these applications. Mr.Aggarwal, learned counsel for the applicants submits that in case the petitioners are allowed to squat from the boundary wall including the raised platform, serious prejudice would be caused to the rights of the applicants, as the raised platform was erected to add safety and security to the building in question. Also the area was to be kept free for movement of pedestrians and to avoid the street vendors from enticing customers from the regular shops.
3. Notice. Learned counsel for the non-applicants accepts notice. The prayer made in the applications is opposed.

4. Learned counsel for the petitioners submits that the applicants are not proper and necessary parties. The area in question does not belong to the applicants. In fact, the area belongs to NDMC. It is further submitted that in case the squatters/petitioners are allowed to vend along the wall in question, they would not damage the raised platform and further they would vend in an organized manner and in no way, entice the customers of the applicants.
5. Learned counsel for the applicants submits that while disposing off the present petitions, the fears of the applicants be safeguarded.
6. The apprehensions of the applicants would be considered at the time of passing final order today itself.

W.P. (C) Nos.11592/2016, 12016/2016, 12165/2016, 12230/2016, 1431/2017, 214/2017, 253/2017, 282/2017, 294/2017, 850/2017 and 11192/2016

1. The names of the petitioners find mentioned in the list of 628 street vendors which was prepared by NDMC. Since the street vendors were blocking the free flow of the pedestrians, they were removed on different dates in the later half of 2016 and the removal has led to the filing the present writ petitions.
2. During the pendency of the writ petitions, a suggestion was made by the learned counsel for the petitioners that the petitioners can be moved back towards the wall of Shops No.36 & 37 as shown in the photographs placed on record. In case the petitioners are moved towards the wall, the advantage would be that they would not cause any obstruction and large number of street vendors would be

accommodated as the present site has trees which also occupy space and thirdly, the raised platform which is otherwise unusable on account of fixing of coolers etc. at a height would be included in the area of 6 x 4 ft. by the street vendors. Additionally, the petitioners are willing to give an undertaking to the Court that they would not occupy an area exceeding 6 x 4 ft., they would include the raised platform in the area of 6 x 4 ft., they would not leave their goods at night, they would not sub-divide the spot or permit any other person to squat without the leave of the NDMC and they would also maintain all security norms.

3. The matters were adjourned from time to time to enable the counsel for NDMC to obtain instructions. The NDMC has given a counter offer to the petitioners that they all can be shifted to Laxmi Bai Nagar. However, the petitioners have not accepted the offer for the reason that even as of now, there are street vendors who are vending in the middle of the road along the tree line and they are only asking for rearranging of their sites.
4. During the course of hearing, the learned counsel for the petitioners handed over two photographs of the area in Court. Photograph 'A' shows the area in question and the raised platform. Photograph 'B' shows the place where the street vendors are vending along the tree line.
5. We dispose of all these writ petitions with the consent of the parties while addressing concerns of the applicants and also the NDMC.

6. The street vendors (petitioners before us) will be re-allocated from the tree line along the boundary walls of Shops No.36 & 37 as shown in photograph 'A'. No street vendor would be permitted to vend along the tree line in future. In effect, the vendors will be permitted to vend along the wall of Shops No.36 & 37, and not on any other part of the road. Along the wall, the NDMC will carry out demarcation of the area 6 x 4 ft. After the re-allocation is made, NDMC will take clear dated photographs of the area, with the person and file the same in the Registry, which will form part of the Court record, to be relied upon for any future proceedings. The area will be inspected by NDMC at least once a month, to ensure that there is no violation of the norms or the area is not being sub-divided or sub-let. The NDMC will file an affidavit after the demarcation is carried out. The affidavit shall disclose the number of sites and names of persons who are allowed to vend, with photographs, after serving an advance copy to the learned counsel for the petitioners. If no objection is filed by the petitioners within one week of receipt of the affidavit, the same would be deemed to be taken as correct and no objections will be entertained thereafter.
7. The street vendors will also file an affidavit(s) which will contain their names, photographs, addresses, copies of Aadhar Cards, including their undertaking in the affidavits that they would not exceed 6 x 4 ft. area which will include the raised platform; would not leave goods at night; would comply with all security norms; would not violate the norms of NDMC; would not sub-let and would not sub-divide the site

and in case of any violation, the NDMC would be entitled to remove them.

8. It is, however, clarified and as agreed by the counsel for the petitioners that petitioner No.6 in W.P. (C) No.282/2017 is allegedly vending in front of Shop No.60, Babu Market and is not one of those who are vending at Dukhi Chowk and as such, he would not be entitled to the relief granted in this order. At this stage, Mr.Sharma wishes to withdraw the petition with respect to petitioner No.6 in W.P. (C) No.282/2017, with liberty to file appropriate legal proceedings. As prayed, the petition being W.P. (C) No.282/2017 qua petitioner No.6 is dismissed as not pressed. Liberty as sought is granted to petitioner No.6.
9. With these directions, all writ petitions including these four applications of Mr.Aggarwal for impleadment are disposed of. Photographs 'A' & 'B' shall form part of this common order.

CM.APPL 45642/2016 (for stay) in W.P.(C) 11592/2016,
CM.APPL 47420/2016 (for stay) in W.P.(C) 12016/2016,
CM.APPL 48044/2016 (for stay)in W.P.(C) 12165/2016,
CM.APPL 48281/2016 (for stay)in W.P.(C) 12230/2016,
CM.APPL 6573/2017 (for stay) in W.P.(C) 1431/2017,
CM.APPL 985/2017(for stay) in W.P.(C) 214/2017,
CM.APPL 1233/2017(for stay) in W.P.(C) 253/2017,
CM.APPL 1373/2017(for stay) in W.P.(C) 282/2017,
CM.APPL 1403/2017(for stay) in W.P.(C) 294/2017,
CM.APPL 3911/2017(for stay) in W.P.(C) 850/2017 and
CM.APPL 43776/2016 (for stay) in W.P.(C) 11192/2016

Applications stand disposed of in view of the order passed in the main writ petitions.

CM.APPL 11992/2017(for release of goods) in W.P.(C) 11592/2016,
CM.APPL 11995/2017(for release of goods) in W.P.(C) 12016/2016,
CM.APPL 11996/2017(for release of goods) in W.P.(C) 12165/2016,
CM.APPL 12004/2017(for release of goods) in W.P.(C) 12230/2016,
CM.APPL 12005/2017(for release of goods) in W.P.(C) 1431/2017,
CM.APPL 11993/2017(for release of goods) in W.P.(C) 214/2017,
CM.APPL 11997/2017(for release of goods) in W.P.(C) 253/2017,
CM.APPL 12003/2017(for release of goods) in W.P.(C) 282/2017 and
CM.APPL 12006/2017(for release of goods) in W.P.(C) 850/2017

In view of the common order passed in the main writ petitions, after the demarcation is made by the NDMC within one week, all the goods be released to the respective petitioners thereafter.

Applications stand disposed of.

G. S. SISTANI, J.

VINOD GOEL, J.

APRIL 25, 2017/ka