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

+ **W.P.(C) 9069/2017**

SUBHASH SHARMA

..... Petitioner

Through :

Mr.Sumit Singh, Adv. for
petitioner.

versus

SOUTH DELHI MUNICIPAL CORPORATION Respondent

Through :

Mr.Sri Harsha Peechara,
Standing Counsel for SDMC
with Ms.Vidhi Jain, Adv.

CORAM:

HON'BLE MR. JUSTICE G.S.SISTANI

HON'BLE MR. JUSTICE CHANDER SHEKHAR

ORDER

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16.10.2017

C.M. No.37093/2017 (Exemption)

1. Exemption allowed subject to all just exceptions.
2. Application stands disposed of.

W.P.(C) 9069/2017 & C.M. No.37094/2017 (Stay)

3. This petition under Article 226 of the Constitution of India has been filed by the petitioner, who claims to be a regular street vendor and stated to have been continuously vending near Savitri Cinema, opposite A-11, Greater Kailash Enclave-II, New Delhi, since 1985. Documents in support of this averment have been filed alongwith the writ petition. It is also the case of the petitioner that he had made an application to the erstwhile MCD in the years 1992, 2001 and 2007 for allotment of a vending site. The

complaint of the petitioner is that on 22.09.2017, his shop has illegally been removed by SDMC.

4. Learned counsel for the petitioner submits that the petitioner had applied for an electricity connection, which was granted to him. Counsel also pointed out that in the year 2015, the petitioner received a demand of property tax. Counsel also submits that the petitioner has also paid property tax from the years 2004-05 to 2016-17.

5. Mr. Sri Harsha Peechara, who enters appearance on advance notice, submits that no right has accrued in favour of the petitioner. However, in a survey conducted, it was found that the petitioner had illegally applied for an electricity connection and the same was granted to him. Consequent thereto, a notice for demand of property tax was issued. Admittedly the property tax was paid. However, Mr.Peechara submits that this demand was raised only on account of the survey conducted, when it was found that the petitioner had applied for an electricity connection and the same was granted to him. Mr.Peechara contends that as per law, the petitioner could not have applied for an electricity connection and hence, property tax would not have been demanded from him, more so, when admittedly the petitioner is an unauthorised street vendor. Mr.Peechara also contends that the petitioner can only be allowed to vend in an area of 6' x 4' open to sky where he had illegally erected a shop on the main road leading to traffic congestion and hampering free movement of pedestrians. Resultantly, his shop has been removed.

6. Mr.Peechara has also handed over in Court recent photographs dated 15.10.2017, which show that the petitioner is back to the same spot but he is vending by putting a table and selling pan, cigarette etc. Mr.Peechara further

contends that in case the petitioner following the norms of SDMC and also subject to the condition that on account of his vending free flow of traffic is not hampered, he would not be removed.

7. Both the counsels agree with in view of the stand taken in the Court today, the present writ petition may be disposed of binding the parties. Accordingly, the present writ petition stands disposed of in view of the above. The parties shall bound by the stand taken by their respective counsel in Court today.

8. Copy of the order be given *dasti* under signature of the Court Master.

G.S.SISTANI, J

CHANDER SHEKHAR, J

OCTOBER 16, 2017

ck/

W.P.(C) 9069/2017

Page 3 of 3