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

+ **W.P.(C) 9303/2017**

KHUSHEE RAM AND ORS.

..... Petitioners

Through: **Mr.S.K. Singh and Ms. Renu Singh,**
Advs.

versus

NEW DELHI MUNICIPAL COUNCIL

..... Respondent

Through: **Mr. Harsha Peechara, Standing**
Counsel with Mr. Nirvikar Verma and
Mr. Chetan Sharma, Advs. for
NDMC.
Mr. Ashish Mohan and Mr. Mohit
Kumar, Advs. for Sarojini Nagar
Market Association.

CORAM:

HON'BLE MR. JUSTICE G.S.SISTANI

HON'BLE MR. JUSTICE V. KAMESWAR RAO

ORDER

% **25.10.2017**

CM No. 38007/2017

Exemption allowed subject to all just exceptions.

Application stands disposed of.

W.P.(C) 9303/2017

1. This is a petition under Article 226 of the Constitution of India. Three petitioners have filed the present writ petition seeking a writ of mandamus with a direction to the respondent to provide an alternate site at Laxmibai Nagar Market or any other site. The petitioners claim to be regular street

vendors and squatting at Opposite Shop no.22, Sarojini Nagar Market, New Delhi, Opposite Shop No.76, Sarojini Nagar Market, New Delhi and Opposite No. 99, Sarojini Nagar Market, New Delhi respectively.

2. Mr. S.K. Singh, learned counsel appearing for the petitioners has drawn the attention of the court to copies of challans filed at pages 29 to 42 of the paper book. Mr. Singh fairly concedes that the petitioners were removed in the month of November, 2011 and thereafter have been squatting off and on. He further submits that names of the petitioners were mentioned in the list of 628 street vendors prepared by the NDMC. Additionally, it is pointed out that the petitioners were successful in the draw which was held by the NDMC, but no allotment could be made in view of subsequent orders passed by the Supreme Court.

3. Mr. Harsha Peechara, learned Standing Counsel appearing for the respondent submits that no alternate site can be allotted to the petitioners as they are not regular street vendors. He submits that admittedly from November, 2011, petitioners have not been vending at the site and the statements made that they have been vending off and on is not borne out from the record and he says so further on instructions from the concerned inspector of the area. Mr. Peechara also submits that out of 140 sites

available at Laxmibai Nagar Market, large number of allotments have already been made and the NDMC is following a transparent policy in accommodating only those street vendors, whose name find mentioned in the list of 628 street vendor prepared by the NDMC, who have been continuously vending, but had to be removed on account of obstruction to free flow of traffic and free movement of pedestrian and those who were hawking in the Connaught Place area which area has since been declared a “no-hawking”, “no-vending” zone. He submits that in case the present petitioners are accommodated, the persons who are continuously hawking and vending, their rights would be seriously affected.

4. Learned counsel for the petitioners submits, at this stage, that the petitioners would be satisfied if leave is granted to the petitioners to approach the Town Vending Committee (TVC) with all supporting documents as and when it becomes functional to enable the TVC to consider their case in accordance with law and merely because they are not found vending at the site, that should not be a ground to reject their case. He submits that if alternate sites are available, the petitioners may be preferably considered at an early date at Laxmibai Nagar Market or any other site.

5. Having heard the learned counsels for the parties and considering the

submissions made by the counsels for the parties, the present petition is disposed of with the following agreed directions:

- (iv) the petitioners would approach the Town Vending Committee with all supporting documents.
- (v) the TVC would consider the request of the petitioners in accordance with law and merely because they are not found vending at the site that itself would not be a ground to reject their case.
- (vi) In case any site is available at the Laxmibai Nagar Market, the case of the petitioners would be considered by following a transparent and uniform policy.

This order is being passed without prejudice to the rights and contentions of the parties and without expressing any opinion on the merits of the matter.

Dasti.

G.S.SISTANI, J

V. KAMESWAR RAO, J

OCTOBER 25, 2017/jg