

\$~22

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

+ **LPA 80/2016**

% *Date of Judgment: 16th February, 2017*

DWARKA SECTOR 6 VENDOR ASSOCIATION Appellant

Through: Mr. Chetan Shandilya, Advocate.

Versus

MCD & ORS

..... Respondents

Through: Mr. Aditya Singh, Advocate for
MCD.

Mr. Virender Pratap Singh Charak,
Advocate with Mr. Santosh Kumar
Pandey & Ms. Shubhra Parashar,
Advocates for SDMC.

Mr. Peeyoosh Kalra, ASC for
GNCTD with Ms. Sona Babbar & Ms.
Pritika Kumar, Advocates with Insp.
Adith Lily and SI Mukesh Kumar of
PS Dwarka (South).

Mr. Sanjeev Singh, Advocate for R-6.

CORAM:

HON'BLE MR. JUSTICE G.S.SISTANI

HON'BLE MR. JUSTICE VINOD GOEL

G.S. SISTANI, J. (ORAL)

1. Challenge in this LPA is to the order passed by the learned Single Judge dated 15.10.2015 by which the writ petition filed by the appellant association seeking a direction to the respondents not to

dispossess the members of the appellant association from their hawking sites i.e. Dwarka Sector-6 Market, New Delhi has been dismissed.

2. It is pointed out that the appellant association comprises of 72 members, but for the present only 35 members are in existence.
3. The grievance of the appellant is that although they have been squatting at different areas, however they were illegally removed by the respondent DDA on 27.08.2015. Learned counsel submits that the appellants are required to be protected in view of the Section 3 (3) of the Street Vendors (Protection of Livelihood and Regulation of Street Vending) Act, 2014, as per which no street vendor is to be evicted till a survey is completed and certificate of vending is issued to all the street vendors. He submits that samples of challans issued to the members of the association have been placed on record to show that the appellants have been vending since the year 2001. Learned counsel submits that although the learned Single Judge had dismissed the writ petition on the ground that the Town Vending Committee is in the process of being constituted. In fact, the Town Vending Committee is still not in place and in case the appellants are not allowed to vend, they would suffer financial hardships as this is their only source of livelihood.
4. We are informed that the writ petition was disposed of on the first date of hearing itself and thus no response was filed by any of the respondents. The position is no different today as there is no response by any of the statutory bodies, who have been impleaded as parties.

5. This petition is vehemently opposed by the counsel for the respondent no. 6 (Central Market Sector-6 Dwarka Welfare Association), which was impleaded as a party by an order dated 26.07.2016.
6. Learned counsel for respondent no. 6 submits that the appellants are encroachers on public land. They have no right to vend or hawk in an area, which has been declared by the MCD as “No Vending Zones” and “No Hawking Zones”. Additionally, it is submitted that along with the LPA, documents pertaining to only five members of the appellant association have been filed, although an impression was created that the documents pertaining to all the members have been placed on record. He further submits that by an order 26.07.2016 a direction was issued to the petitioner to file further documents, however the said documents, which have been placed on record, are forged and fabricated, which would be evident from the fact that the receipts filed at page no. 247, 249 and 259 pertain to different persons but all the particulars on the receipts are same except the name of the persons. Counsel for respondent no. 6 further submits that neither the writ petition was maintainable nor the present LPA is maintainable as the respondent no. 6 has instituted an earlier writ petition with respect to the encroachments of the same area and same market, being WP (C) No. 3521/2006. It is contended that when the aforesaid writ petition came up for hearing on 21.09.2006, the following order was passed:

“Learned counsel for respondent no. 2 shall file a supplementary affidavit indicating the plan/action to remove encroachment, on systematic basis, from the public land in the markets in question. Let the affidavit be filed within four weeks. List on 5th February, 2007.”

7. Counsel contends that remedial action was taken and the market was cleared of all encroachments, which is evident upon reading the subsequent order passed on 14.02.2008, which reads as under:

“Status report has been filed by both DDA as well as Delhi Police. The photographs show that encroachments have been removed. Details of FIR registered against persons who had encroached upon footpath and other land adjacent to the market have been enclosed with the affidavit.

In view of the action taken nothing survives in the present writ petition. However, it is directed that the respondent/DDA and Delhi Police will continue to make periodical inspections of the area to ensure that footpath and other areas are not encroached upon.”

8. It is submitted that the appellants in connivance with officials of the respondents continued to flout the orders and the appellants, who are part of the strong mafia, continue to occupy and obstruct public areas in utter defiance of the order passed in W.P. (C) No. 3521/2006, which order was never challenged and has thus attained finality. It is also contended by the counsel for respondent no. 6 that the documents sought to be relied upon by the appellants are unreliable and in fact do not support the case of the appellants that they have been vending at the area in question since 2001.
9. Attention of the court is drawn to paragraphs 3 and 7 of the CrI. Misc. Application No. 17488/2016 filed by the respondent no. 6 to show that false and misleading statements have been made by the appellant. The paragraphs read as under: -

“3. That the Appellant filed false affidavit, made false statements and fabricated documents when he filed the present LPA, which is demonstrated below: -

S.No.	STATEMENT MADE BY	ITS FALSITY PROVEN FROM
-------	-------------------	-------------------------

	APPELANT/BAL KISHAN	COURT RECORD
1.	Mr. Bal Kishan filed a list of 72 persons & annexed some alleged documents in support [Annexures P2(Colly) & P3(Colly) Pg 80 to 96 of LPA] and described them as below: <u>Annexure P2(Colly): "Copies of Challan Receipts of the Vendors"</u> <u>Annexure P3(Colly):</u> <u>"Challan by MCD and confiscation of the items from which they have been vending"</u>	(a) Scrutiny of these alleged documents showed that even these were with respect to only 5 persons, which was shown for 72 persons and in this garb new encroachment was being attempted. (b) Mr. Bal Kishan had shown no locus to represent anyone or file any legal case before any court, let alone 72 persons and LPA was filed giving some address of Nangloi, which the petition itself stated as residence address of Mr. Bal Kishan. (c) no vending rights were ever granted in this market area, as it is a Non Vending/Non hawking area and rather a Zero Tolerance Zone. (d) there was not even one alleged document in favour of Bal Kishan.
2.	That 72 persons were operating as vendors in Dwarka Sec. market from the year 2001	(a) When this litigation started, there were no vendors in this market area and Bal Kishan himself submitted it, which was observed by High Court in impugned Order dt. 15.10.2015 in W.P(C) No. 9042/2015. <i>"But as per averments in paras 25 and 26 of the petition the petitioners have already been dispossessed on 27.08.2015."</i> (b) Delhi High Court vide Order dt 21.09.2006 in W.P.(C) No. 3521/06 had directed Govt. authorities to remove all encroachments in markets at Sector 6 & 10, Dwarka, N. Delhi and to continue doing so on systematic basis. (c) Delhi High Court vide Order dt. 14.02.2008 in W.P.(C) No. 3521/2006 had observed that there was no encroachment in this market and further directed DDA & Delhi Police to make periodical inspection of market area & ensure that footpath & other areas are not encroached upon by unscrupulous elements. These Orders have been placed on record in present proceedings.

		(d) Respondent No.6 had filed photographs & video showing there are no existing vendors in this market area
3.	Mr. Bal Kishan claimed himself to be President of an association named Dwarka Sector-6 Vendors Association claiming to represent 72 persons	There is no such association or entity named Dwarka Sector-6 Vendors Association. Nothing was placed on record to substantiate Mr. Bal Kishan projecting himself as its alleged President.

...

7. That the scrutiny of the Affidavit 10th August 2016 filed by Mr. Bal Kishan and copies of documents annexed, has revealed further false statements by Appellant who has filed another false affidavit on oath before this Hon'ble Court and that Appellant and his accomplices have further forged & fabricated documents to play fraud upon this Hon'ble Court, as detailed below:

7.1: False statements made in the affidavit

S.No.	STATEMENT MADE/ DOCUMENTS FILED BY APPELLANT	ITS FALSITY PROVEN FROM COURT RECORD
1.	Appellant in para 4 of affidavit has stated: <i>"I say that the appellant association is now filing proof of 37 vendors out of 72 vendors because rest of the vendors are not having any supported documents"</i>	(a) As shown above, when this litigation started, there were no vendors in this market area as submitted by Bal Kishan himself. (b) Mr. Bal Kishan filed a list of 72 persons & annexed some alleged documents in support as <i>"Copies of Challan Receipts of the Vendors"</i> AND <i>"Challan by MCD and confiscation of the items from which they have been vending"</i> (c) After the falsity of this statement was exposed, now Appellant says only 37 vendors have any proofs, which means 35 out of 72 vendors never had any supporting documents, as was being falsely claimed.
2.	Appellant now claims that 37 vendors have supported documents	Scrutiny of even these documents shows that even this is false as they are not even 37 and the nature of documents is commented upon against each in the sub-paras below.

7.2: List of persons with no ID and no connection with Sec. 6 Market:

[Alleged documents of each name grouped together to highlight the same]

S.No.	Name	Particulars	Pg. No.	Observation
1.	Shankar	Copy of alleged Receipt No. 471005 dated 03.12.2013 for Rs. 50/-.	11	Without any I.D. proof Challan by Delhi Police for garbage. No address of where it is booked.
2.	Laxmikant	Copy of alleged Receipt No. 451684 dated 04.09.2013.	13	Without I.D. Proof Challan by Delhi Police for garbage. No address of where it is booked.
3.	Raghav	Copy of alleged Receipt No. 45672 dated 02.03.2016. Copy of alleged Receipt No. 30739 dt 9.06.10 Copy of alleged Receipt No. 24067 dt. 6.01.11 Copy of alleged Receipt No. 680064 dt.28.3.06 Copy of alleged Receipt No. 410 dated 20.03.2008	16 17 18 19 20	<u>There is no I.D. Proof to even connect these documents with this person.</u> Receipt for garbage. Receipt for garbage Receipt for garbage The name on receipt is Raghu Paswan The name on receipt is Raghu Paswan
4.	Bal Kishan	Copy of Voter ID as ID Proof Copy of alleged Receipt No. 471041 dated 18.01.2014. Copy of alleged Receipt No. 668629 dated 22.08.2014 Copy of pass book Corporation Bank	31 32 33 34	Challan by Delhi Police for garbage. No address of where it is booked. Challan by Delhi Police for garbage. No address of where it is booked. Irrelevant document attached to mislead the court.
5.	Surender Yadav	Copy of alleged Receipt No. 055273 dated	35	<u>No I.D. Proof.</u> <u>Address on Receipt is RZ C/8</u>

		24.09.2013.		Patel Garden
6.	Manoj Rao	Copy of One side of Voter ID card	36	No name. Back side of some Voter ID attached in order to mislead.
		Copy of alleged Receipt No. 668632 dt 22.8.14	37	Challan by Delhi Police for garbage. No address of where it is booked.
		Copy of pass book Corporation Bank	38	Irrelevant document attached to mislead the court.
7.	Madhur Rahman	Copy of Voter ID card	39	<u>Only copy of ID card attached.</u>
		Copy of pass book Corporation Bank	40	<u>No document to show any connection.</u>
8.	Devender	Copy of Aadhar as ID Proof	41	Name on Aadhar is different i.e. Devendra Khetrapal
		Copy of alleged Receipt No. 1046714 dated 20.03.2012.	42	Receipt in name of different person Devi Der. For garbage.
		Copy of alleged Receipt No. 40003 dated 10.09.2014	43	Receipt in name of Devender. For garbage.
		Copy of passbook Corporation Bank	44	Irrelevant document attached to mislead the Court.
9.	Gulshan Sabharwal	Copy of Aadhar card	45	<u>No document, only IDs given.</u>
		Copy of Voter ID card	46 & 48	
		Copy of some photos	47	Not a document.
10.	Shrey Khetrapal	Copy of pass book Corporation Bank	49	No document & no connection. Irrelevant document attached to mislead the Court.
11.	Rinku	Copy of Aadhar as ID Proof	58	
		Copy of alleged Receipt No. 210801 dated 16.01.2013.	59	<u>FORGED & FABRICATED RECEIPT [THREE RECEIPTS OF SAME NO.]</u> Challan by Delhi Police for garbage. No address of where it is booked.
12.	Rahul	Copy of Aadhar	60 &	<u>SAME DOCUMENT</u>

		as ID Proof	63	<u>REPEATED TO MISLEAD THE COURT</u>
		Copy of alleged Receipt No. 210801 dated 16.01.2013.	61 & 64	<u>FORGED & FABRICATED RECEIPT [THREE RECEIPTS OF SAME NO.] SAME DOCUMENT REPEATED TO MISLEAD THE COURT.</u>
		Copy of alleged Receipt No. 39331 dated 15.07.2015	62 & 65	Challan by Delhi Police for garbage. No address of where it is booked Challan is in the name of Garg Creations, a shop rather than any vendor. <u>SAME DOCUMENT REPEATED TO MISLEAD THE COURT.</u>
13.	Amit	Copy of Aadhar as ID Proof Copy of alleged Receipt No. 210801 dated 16.01.2013.	70 71	<u>FORGED & FABRICATED RECEIPT [THREE RECEIPTS OF SAME NO.]</u> Challan by Delhi Police for garbage. No address of where it is booked.
14.	Lala Ram	Copy of Aadhar as ID Proof Copy of alleged Receipt No. 471067 dated 10.02.2014.	68 69	Challan by Delhi Police for garbage. No address of where it is booked.
15.	Subhash Kumar	Copy of Driving License as ID Copy of alleged Receipt No. 471043 dated 18.01.2014. Copy of alleged Receipt No. 13000 dated 16.01.2013	79 80 81	Challan by Delhi Police for garbage. No address of where it is booked. Challan by Delhi Police for garbage. No address of where it is booked.
16.	Ajay Kumar Jumani	Copy of Voter card as ID Proof Copy of alleged	84 85	<u>Receipt in name of different</u>

		Receipt No. 322066 dated 10.09.2007. Copy of alleged summon dated 16.11.2010. Copy of alleged Receipt No. 21842 dated 25.11.2010. Copy of alleged Receipt No. 74453 dt 13.01.11	86 87 88	<u>person Sonu.</u> For garbage. <u>In name of different person Sonu.</u> For garbage. <u>Receipt in name of different person Sonu.</u> For garbage. <u>Receipt in name of different person Sonu.</u> For garbage.
17.	Sanjay Kumar	Copy of alleged summon dated 03.01.2012.	89	Only Summon. No ID and No proof.
18.	Pappu	Copy of Voter card as ID Proof Copy of alleged Receipt No. dated 06.03.2014.	90 91	Challan by Delhi Police for garbage. No address of where it is booked.
19.	Karam Veer Singh	Copy of Voter ID from Unnao, UP Copy of some photo	92 93	No Proof Not a document.
20.	Ravi	Copy of Voter card as ID Proof Copy of alleged Receipt No. dated 25.01.2010. Death Certificate of Ravi Chauhan Copy of Aadhar Card of some Neetu Chauhan	94 97 96 95	<u>THIS PERSON HAS BEEN CLAIMED TO BE DEAD, on 27.11.2015, STILL CLAIM BEING MADE IN HIS NAME</u> Receipt in name of Ravi Chawan. For garbage, etc. No relevancy
21.	Manish Kumar	Copy of Aadhar card as ID Proof Copy of some medical documents of some Shweta	98 99, 100, 101, 102	Not relevant at all. No explanation has been given. Clear effort to mislead the Court.

22.	Manoj Kumar	Copy of Voter card as ID Proof	103	Challan by Delhi Police for garbage. No address of where it is booked.
		Copy of alleged Receipt No. 000683538 dated 27.05.2015.	104	
23.	Gaurav Kumar Bansal	Copy of Aadhar card as ID Proof	117	Name on Aadhar card Gaurav Bansal
		Copy of Voter card as ID Proof	118	Name on card Gaurav
		Copy of alleged Receipt No. 211000 dated 25.03.2013.	119	Challan by Delhi Police for garbage. No address of where it is booked.
		Copy of alleged Receipt No. 37825 dt. 25.6.15.	120	Receipt in a different name Pranav Bansal
24.	Bhupinder Gauhar	Copy of Aadhar card as ID Proof	121	Name on card is Bhupinder Gohar
		Copy of alleged Receipt No. 0329613 dated 14.11.2015.	122	Name on Receipt. is Bhupinder. Challan by Delhi Police for garbage. No address of where it is booked.
25.	Manoj Yadav	Copy of Aadhar card of Begu Sarai, Bihar as ID	125	Not relevant at all. No explanation has been given. Clear effort to mislead the Court.
		Copy of medical documents of Manoj Yadav	126, 127, 128, 129, 130, 131 & 132	

7.2: That out of these 37 persons Sanjay Bisht and Pankaj Rathor (part of original list) have accepted that they were never a vendor at Sector-6 market, Dwarka and their name has been put in the list fraudulently and have given affidavits to this effect, copies of which are enclosed as **Annexure R6/1 & Annexure R6/2** respectively.

S.No.	Name	Particulars	Pg. No.	Observation
1.	Sanjay Bisht	Name at Sl. No. 21 [Pg 76 LPA] Copy of Voter ID Card	56	Location is not related to the Sec. 6 market. Has given affidavit that he was never a
		Copy of alleged MCD Receipt No. 37824 dated	57	

		25.06.2015 of B-107, DDA Flats Pkt 2, sec.7 Dwarka		vendor of Sector-6 market and his name has been put in the list fraudulently.
2.	Pankaj Rathor	Name at Sl. No. 26 [Pg 76 of LPA]		Has given affidavit that he was never a vendor of the Sector-6 market and his name has been put in the list fraudulently.

7.4: List of alleged documents filed by Appellant with respect to persons claiming vendor rights:

[Alleged documents of each name grouped to highlight the same]

S.No.	Name	Particulars	Pg. No.	Observation
1.	Ghanshyam	Copy of Aadhar Card as ID	3	Name on ID Ghanshyam Madan
		Copy of alleged Registration certificate from 11.08.2015	4	Such a certificate issued by Dept. of Food Safety are w.r.t. food safety. At bottom this itself states: " <i>This document doesnot vest any right to the vendor to vend from the address shown in the Registration certificate</i> " The date of issue is after the Vendors Act was notified.
		Copy of alleged Tehbazari Receipt No. 197110 dt 19.10.2006 for Rs.100/-	5	Challan in name of Ghanshyam. Contains no address.
		Copy of alleged MM Court Receipt No. 000921091 for Rs.100/-	6	Receipt in name of Ghanshyam. Contains no address.
		Copy of alleged MCD Receipt No. 51434	7	Receipt in name of Ghanshyam. For garbage etc. Address only Sec. 6 Market.
		Copy of alleged MCD Receipt No. 77174 dt. 16.3.11	8	Receipt in name of Ghanshyam. For garbage. Address only Sec. 6 Market.
		Copy of alleged MCD Receipt No. 24055 dated	9	Receipt in name of Ghanshyam. For garbage. Address only Sec. 6 Market.

		06.01.2011 Copy of alleged MCD Receipt No. 038312 dated 12.07.2012	10	<u>Receipt contains address as D-7/56, Sec. 6 Rohini.</u>
		Copy of alleged Receipt No. 0853210 dated 10.6.2011	12	Receipt in name of Ghanshyam. Challan by Delhi Police for garbage. No address of where it is booked.
		Copy of alleged MCD Receipt No. 38379 dated 08.07.2015	14	Receipt in name of Ghanshyam. For garbage. Address only Sec. 6 Market.
		Copy of alleged Receipt No. 40547 dated 04.09.2015	15	<u>Receipt contains address as D-7/56, Sec. 6 Rohini</u>
2.	Jitender Tiware	Copy of Aadhar as ID Proof	21	Not existing. Such a certificate issued by Dept. of Food Safety are w.r.t. food safety. At the bottom this itself states: " <i>This document doesnot vest any right to the vendor to vend from the address shown in the Registration certificate</i> " The date of issue is after the Vendors Act was notified. <u>Address on the same is Sec. 6 , Dwarka, Rajouri Garden.</u>
		Copy of alleged Registration certificate from 02.03.2015	24	
3.	Avdhesh Tiware	Copy of Aadhar as ID Proof	23	Address is of Siwan, Bihar
		Copy of alleged Registration certificate from 05.03.2015	24	Not existing. Such a certificate issued by Dept. of Food Safety are w.r.t. food safety. At the bottom this itself states: " <i>This document doesnot vest any right to the vendor to vend from the address shown in the Registration certificate</i> " The date of issue is after the Vendors Act was notified. <u>Address on the same is Sec. 6 , Dwarka, Uttam Nagar Rajouri</u>

				<u>Garden.</u>
4.	Lalmati Devi	Copy of Aadhar as ID Proof Copy of alleged Reg. certificate from 02.03.2015	25 26	Wife of Jitender Tiwari (Sl. No.2) Not existing. Such a certificate issued by Dept. of Food Safety are w.r.t. food safety. At the bottom this itself states: " <i>This document doesnot vest any right to the vendor to vend from the address shown in the Registration certificate</i> " The date of issue is after the Vendors Act was notified. <u>Address on the same is Sec. 6 , Dwarka, Rajouri Garden.</u>
5.	Navalesh Kumar	Copy of Aadhar as ID Proof Copy of alleged Registration certificate from 10.03.2015	27 28	Address is of Gaya, Bihar Not existing. Such a certificate issued by Dept. of Food Safety are w.r.t. food safety. At bottom this itself states: " <i>This document doesnot vest any right to the vendor to vend from the address shown in the Registration certificate</i> " The date of issue is after the Vendors Act was notified. <u>Address on the same is Sec. 6 , Dwarka, Uttam Nagar Rajouri Garden.</u>
6.	Pankaj Tiwari	Copy of Voter ID as ID Proof Copy of alleged Registration certificate from 05.03.2015	30 29	Address is of Siwan, Bihar Not existing. Such a certificate issued by Dept. of Food Safety are w.r.t. food safety. At bottom this itself states: " <i>This document doesnot vest any right to the vendor to vend from the address shown in the Registration certificate</i> " The date of issue is after the Vendors Act was notified. <u>Address on the same is Sec. 6 , Dwarka, Uttam Nagar Rajouri Garden.</u>

7.	Gulshan Khurana	Copy of alleged Receipt No. 013078 dated 18.03.2014.	50	<u>For garbage. Address given on receipt is only Sec. 6.</u>
		Copy of alleged Receipt No. 210888 dated 13.02.2013.	51	Receipt in name of Gulshan. Challan by Delhi Police for garbage. No address of where it is booked.
		Copy of alleged Receipt No. 048670 dated 30.04.2013	52	Receipt in name of Gulshan for garbage.
		Copy of alleged Receipt No. 055269 dated 24.09.2013	53	<u>Receipt contains address as B-65, Subhash Park</u>
8.	Deepak Arora	Copy of Aadhar as ID Proof.	54	Name on ID is Deepak Kumar Arora
		Copy of alleged Receipt No. 104003 dated 13.12.2011.	55	Receipt for garbage.
9.	Vikas Kumar	Copy of alleged Receipt No. 30209 dated 25.06.2014.	66	Receipt for garbage. Address only Sec. 6 Market
		Copy of Aadhar as ID Proof	67	No clear I.D. Proof. Nothing readable.
10.	Harish	Copy of Voter Card as ID proof	72	Receipt for garbage. Address only Sec. 6 Market
		Copy of alleged Receipt No. 1044462 dt 03.01.2012.	73	
		Copy of alleged Receipt No. 12941 dated 26.12.2012.	74	Challan by Delhi Police for garbage. No address of where it is booked.
		Copy of alleged Receipt No. 451728 & summon dated 10.10.2013	75 & 76	Challan by Delhi Police for garbage. No address of where it is booked.
		Copy of alleged	77	Challan by Delhi Police for

		Receipt No. 471042 dated 18.01.2014 Copy of alleged Receipt No. 30274 dated 25.06.2014	78	garbage. No address of where it is booked. Receipt for garbage. Address only Sec. 6 Market
11.	Mahesh Kumar Yadav	Copy of Voter card as ID Proof Copy of alleged Receipt No. 30276 dated 25.06.2014.	82 83	Receipt for garbage. Address only Sec. 6 Market
12.	Ajay Tiwari	Copy of Aadhar card as ID Proof with some complaint Copy of alleged Receipt No. 027341 dated 16.05.2014.	106, 107	Receipt For garbage
13.	Naresh Sharma	Copy of Voter card as ID Proof Copy of alleged summon dated 04.06.2014 Copy of alleged Receipt No. 471135 dated 07.05.2014. Copy of alleged Receipt No. 30210 dated 06.06.2014	108 109 110 111	Name on card is Naresh Kumar Only Summon. Challan by Delhi Police for garbage. No address of where it is booked. Receipt For garbage.
14.	Vinod Prasad	Copy of Aadhar card as ID Proof Copy of alleged Receipt No. 12959 dated 26.03.2012. Copy of alleged summon dated 27.08.2011 Copy of alleged Receipt No.	112 113 114 115	Challan by Delhi Police for garbage. No address of where it is booked. Only summon. Receipt for garbage with add. as Sec. 6 Dwarka

		82090 dt 10.8.11. Copy of alleged Receipt No. 45771 dated 17.03.2010.	116	Receipt for garbage
15.	Shasanka Shekha Shahu	Copy of Aadhar card as ID Proof Copy of alleged Receipt No. 39583 dated 22.07.2015.	123	Name on card is Shasanka Shekhar Sahoo Name on Receipt of Garbage. is Shushaku Shahu”

10. Counsel submits that the documents sought to be relied upon are irrelevant documents as some of the documents are *challans* issued by Delhi Police for storage of garbage. The documents do not connect with the names of the persons and address is not mentioned. It is also contended that once the order passed in WP (C) No. 3521/2006 has attained finality, the matter cannot be reheard and even otherwise the names of the appellants do not find mentioned in any of the earlier surveys carried out pursuant to the directions of the Supreme Court by either Chopra Committee or Thareja Committee. Thus, the appellants are encroachers and cannot be granted any protection.
11. We have heard the learned counsel for the parties and considered their rival submissions.
12. We find that in response to the submissions made by the learned counsel for the respondent no. 6, there is no satisfactory answer to the submission pertaining to the orders passed in WP (C) 3521/2006 having attained finality. The explanation rendered for not placing proper supporting documents on record by learned counsel for the petitioner is that whenever a raid is conducted by the officials of the

respondents, the vendors are left with no option but to run away from the area with their respective goods, which would otherwise be confiscated and penalty imposed upon them. There is also no explanation with regard to documents filed at page no. 247, 249 and 259 of the paper book, where the receipt number is the same, all particulars remain identical but the receipts stand in the name of Amit, Rahul and Rinku; except that the appellant association has filed a police complaint against two out of the three persons, who have fabricated the receipts. Copy of police complaint has been placed on record along with CM No. 6238/2017.

13. Thus, the appellants have failed to place on record the documents, which would repose confidence in the court that the appellants have been vending at the sites in question since the year 2001. The appellants are unable to show the vital documents in support of this plea. The earlier orders passed and the affidavit filed by DDA in WP (C) 3521/2006 dated 21.09.2006 and 14.02.2008 would show that the area in question was clear of all encroachments even at that stage. In case the appellants were vending at the site, which is disputed by the counsel for the respondent no. 6, the appellants would have approached this court to safeguard their interest in the year 2006 or soon thereafter. Thus, a reasonable doubt is created as to whether these are the same appellants, who were infact squatting at the time when orders were passed in WP (C) 3521/2006.

14. Therefore, the protection contained in Section 3 (3) would not apply to the members of the appellant association. Additionally the orders passed by this Court in WP (C) 3521/2006 cannot be allowed to be flouted.
15. At this stage, we restrain ourselves from making any further comments or return a finding with respect to the documents filed by some of the appellants on record although the same are not above suspicion or else their rights would be affected in case the members of the appellant association wish to approach the Town Vending Committee in support of their pleas for grant of licences and squatting sites.
16. Accordingly, we find no merit in the present LPA, however we make it clear that should the members of the appellant association approached the Town Vending Committee in the prescribed form, their applications would not be rejected merely because they were not found vending at the site in question provided, of course, they are able to place on record supporting documents in support of their plea that they have been vending since 2001. With these observations, the LPA and all applications are disposed of.
17. We also direct the statutory bodies to ensure that none of the shop-keepers encroach upon *verandahs* or public land. Counsel for respondent no. 6 also undertakes to the court that none of the members of the respondent no. 6 association will permit any shop keeper or any member of the association to encroach upon public land, extend their shops or encroach upon *verandahs* or public land. The statutory

bodies are directed to take strict action in case of violation of this undertaking.

G. S. SISTANI, J.

VINOD GOEL, J.

FEBRUARY 16, 2017

// “sk”

