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

+ **CONT.CAS(C) 232/2016**

VINAY KUMAR MAHAJAN

..... Petitioner

Through: **Mr. R.P. Sharma, Adv.**

versus

RAJESH RAWAT

..... Respondent

Through:

CORAM:

HON'BLE MR. JUSTICE V. KAMESWAR RAO

ORDER

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17.04.2018

1. The present contempt petition has been filed by the petitioner alleging non-compliance of order dated March 02, 2015 in W.P. (C) 1988/2015. It is the conceded case that the petitioner herein was not a party in the said writ petition. The said writ petition was filed by the respondent herein Sh. Rajesh Rawat. The W.P. (C) 1988/2015 was decided by a Coordinate Bench of this Court with other connected petitions. The plea of the petitioners in the writ petitions was for an injunction restraining the respondents therein including NDMC from disturbing them in carrying on with their respective trades on the streets. The Coordinate Bench relied on an order dated August 29, 2014 passed in W.P. (C) 5580/2014. The directions in W.P. (C) 5580/2014 reads as under:

“Present writ petitions have been filed seeking a direction to the respondents not to obstruct or disturb the petitioners in carrying on their trade from their respective sites till the Town Vending Committee of NDMC issues certificate of vending to the petitioners in accordance with Section 3(3) of the Street Vendors (Protection of Livelihood and Regulation of Street Vending) Act, 2014 (hereinafter referred to as ‘Act, 2014’) and in terms of order dated 09th September, 2013 passed by the Supreme Court in Maharashtra Ekta Hawkers Union and Another vs. Municipal Corporation, Greater Mumbai and Anr., 2013(11) SCALE 329.

Learned counsel for petitioners relies on Section 3(3) of the Act, 2014 to pray that petitioners be allowed to continue to squat at their respective sites.

In support of his submissions, he relies upon the judgment of the Supreme Court in Maharashtra Ekta Hawkers Union and Another (supra) wherein it has been held as under:-

“16. For facilitating implementation of the 2009 Policy, we issue the following directions:

xxxx xxxx xxxx xxxx

(xv) All the existing street vendors / hawkers operating across the country shall be allowed to operate till the exercise of registration and creation of vending / hawking zones is completed in terms of the 2009 Policy. Once that exercise is completed, they shall be entitled to operate only in accordance with the orders/directions of the concerned Town Vending Committee.”

Learned counsel for respondent-NDMC who appears on advance notice, states that the petitioners are not existing squatters and are, therefore, not entitled to protection under Section 3(3) of Act, 2014.

Learned counsel for respondent-NDMC further states that in accordance with the Act, 2014, petitioners should raise their grievances before the Town Vending Committee (hereinafter referred to as ‘Committee’).

Learned counsel for respondent-NDMC also states that though the Committee has been appointed, yet it is not functional as of

today. In rejoinder, learned counsel for petitioners vehemently disputes the contentions advanced by learned counsel for respondent-NDMC.

Having heard learned counsel for parties, this Court is of the view that disputed questions of fact are involved in the present petitions. This Court is also of the opinion that in view of the Act, 2014 having come into force on 4th March, 2014, the appropriate forum to decide the lis between the parties is the Committee.

The Act, 2014 provides for constitution of a Committee which is to conduct survey of all existing street vendors and make the scheme for relocation. Section 3(3) of the Act, 2014 clearly states that no street vendor shall be evicted or relocated till survey specified under sub-Section(1) has been completed and the certificate of vending has been issued to all street vendors.

Consequently, the respondent-NDMC is directed to make the Committee functional as within eight weeks. Petitioners are permitted to file their representations with the Committee within a period of eight weeks.

Upon the said representations being filed, the Committee is directed to decide the same expeditiously, preferably within six months.

With the aforesaid directions, present writ petitions and applications are disposed of.”

2. From the above, it is clear that an order has been passed in favour of the respondent herein that he be not evicted or relocated, till such time a survey is completed and certificate of vending is issued.
3. It is submitted by Mr. R.P. Sharma, learned counsel for the petitioner that the respondent had misrepresented before the Court that he is squatting on the public land. According to him, the land on which the respondent is

squatting, belonged to the petitioner.

4. He has drawn my attention to the communications received by the petitioner from the New Delhi Municipal Council including a response to an application under the Right to Information Act. Having noted the aforesaid facts, it is clear that the order of the Coordinate Bench dated March 02, 2015 ennure the benefit of the respondent qua the NDMC only. If it is the case of the petitioner that the respondent is squatter on a private land belonging to the petitioner and not NDMC, appropriate for the petitioner is to seek such remedy as available in law, as according to this Court, a contempt petition for violation of order dated March 02, 2015 shall not be maintainable, that too at the behest of the petitioner who was not a party. Accordingly, the contempt petition is dismissed. The liberty is with the petitioner to seek such remedy as available to him in accordance with law before appropriate forum.

V. KAMESWAR RAO, J

APRIL 17, 2018/aky