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

+ **W.P.(C) 2239/2018**

SMT. MUNESH AND ORS.

..... Petitioners

Through: Mr. J.P. Sengh, Sr. Adv. with
Mr. L.B. Rai, Mr. Sumit Nagpal,
Ms. Vaishali Tanwar, Ms. Manisha
Mehta and Ms. Mrigna Shekhar,
Advts.

versus

**EAST DELHI MUNICIPAL CORPORATION
AND ORS.**

..... Respondents

Through: Mr. Mukesh Gupta, Standing counsel
with Subhash Sharma (MIL) and
Dr. M.L. Sharma, Asst.
Commissioner, Shahdara (South Zone)

CORAM:

HON'BLE MR. JUSTICE V. KAMESWAR RAO

ORDER

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15.03.2018

The present petition has been filed by the petitioners with the following prayers:

“ Therefore, in the abovenoted facts and circumstances, it is most respectfully prayed that this Hon’ble Court may be pleased to: -

(a) Pass appropriate writ order or direction thereby setting aside the Eviction Notice dated 29.01.2018 being Notice No. 653/Dy. Dir. (VS)/SHAH (South Zone)/2018 issued by the Office of the Deputy Director (VS), Shahdara (South Zone), East Delhi Municipal Corporation (EDMC) issued in utter violation of principles of natural justice and the provisions of Delhi Municipal Act, 1957, inasmuch as before sealing the premises of the petitioners no show cause notice was issued to the petitioner; no sealing orders are passed by the

respondent and the premises have been sealed;

(b) Pass appropriate writ order or direction for setting aside the eviction notice dated 29.01.2018 issued by the Deputy Director (VS), Shahdara (South Zone), East Delhi Municipal Corporation (EDMC) and direct the officers of the Respondent EDMC to desal /unlock the properties of the petitioners bearing No. A-862, A-863 and A-864, Charoli Dairy Colony, Mayur Vihar Phase-III, Delhi – 96 and restore the peaceful possession of the petitioners herein who are the lawful owners of the plots in question and were in the settled possession of the same with their family members since last more than 25 years;

(c) Pass appropriate writ order or direction thereby setting aside the notice dated 29.01.2018 issued by the Respondent No.2 as the same is pasted / affixed on the premises and the premises are sealed / locked without passing either the sealing order or eviction order by the Respondent No.1 & 2;

(d) Pass such other order or orders as this Hon'ble Court may deem just and proper in the facts and circumstances of the case."

It is the case of the petitioners that persons who were running dairy farm in Delhi were shifted to the outskirts of Delhi and in the same process, respondent no.3 namely Ranjeet Singh was allotted plots bearing no. A-862 , A-863 and A-864, Gharoli Dairy Colony, Mayur Vihar, Phase-III, Delhi by way of allotment letter dated April 9, 1976. It is their case that respondent no.3 sold the plots to one Raj Kumar on May 30, 1988. It is further the case of the petitioners that petitioner no.1 purchased the said plot from one Smt. Mithila in the year 2009. Mr. J.P. Sengh, learned Sr. Counsel appearing for the petitioners states, other petitioners have purchased the plots in and around the same time. The erstwhile MCD had issued a notice dated March

10, 2000 to the allottees of the dairy plots for misusing the dairy plots. The dairy owners filed a writ petition before this court which was disposed of on February 10, 2003 by making it clear that petitioners therein will use the dairy plots for the purpose of the residence only. It is averred that respondent no.3 had filed a Suit before the District Court for Possession and Permanent Injunction against the son of petitioner no.1 and petitioner no.9 and one Mr. Subhash Chand. The said Suit is still pending. It is averred that on January 9, 2018 the concerned District Court had passed an order to take appropriate action in respect of the plots in question. It is also their case that respondent nos. 1 and 2 on a misreading of the order passed by the concerned District court, had affixed the eviction notice dated January 29, 2018 on the premises of the petitioners and gave them 24 Hrs. to vacate the premises. It is averred and also contended by Mr. J.P. Singh, learned Sr. Counsel for the petitioners that the impugned action of evicting the petitioners was in violation of the provisions of the DMC Act, 1957 as well as the principles of natural justice as the notice has been issued without giving at least a hearing to the petitioners who have been left, without any shelter.

On the other hand, Mr. Mukesh Gupta, learned Standing Counsel appearing for the respondent nos. 1 and 2 would submit that initially the plots were allotted to Mr. Ranjeet Singh, however, the allotment of plots in favour of Mr. Ranjeet Singh was cancelled vide order dated August 29, 2000 which has attained finality. He would state, even in a writ petition filed by Mr. Ranjeet Singh being W.P.(C) 777/2014, this court observed that the order of cancellation of plots has attained finality. According to him, petitioners cannot have a better right than Mr. Ranjeet Singh against whom

the cancellation has attained finality.

After hearing the counsel for the parties for some time and on the submission of Mr. Gupta on instructions from Dr. M.L. Sharma, Asst. Commissioner that a show cause notice shall be issued to the petitioners and by eliciting reply and also by giving them a hearing, a reasoned order shall be passed, which submission is acceptable to Mr. Sengh, I deem it appropriate to dispose of the writ petition by directing the respondents to issue show cause notice(s) to the petitioners giving reasons for their eviction within two weeks and after eliciting replies from the petitioners within 10 days thereafter and by giving them a hearing on a date and time fixed, shall pass a final order within four weeks from today as an outer limit.

Pending passing of final order by the respondent Nos. 1 and 2, it is directed respondent Nos. 1 and 2 shall de-seal the properties of the petitioners by tomorrow evening. I also take on record the statement of Mr. Gupta that final order to be passed by the respondent Nos. 1 and 2, if to the prejudice of the petitioners, shall not be implemented for a week thereafter.

The petition is disposed of.

A copy of this order be given *dasti* under the Signatures of the Court Master.

CM. No. 9217/2018

In view of the order passed in the writ petition, the application has become infructuous and dismissed as such.

V. KAMESWAR RAO, J

MARCH 15, 2018/jg