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

% *Date of Order: 31st May, 2018*

\+ W.P.(C) 4502/2018

MOHD. LUKMAN AND ORS. ..... Petitioners

Through Mr. Tanmaya Mehta and Mr. Neeraj Kumar, Advocates

versus

NORTH DELHI MUNICIPAL CORPORATION AND ORS. ..... Respondents

Through Mr.Rajan Sabharwal, Standing Counsel for respondent no.1.
Mr. Ankur Chhibber, Advocate for respondents no.2 and 3.

\+ W.P.(C) 4504/2018

MOHD. SULEMAN AND ORS. ..... Petitioners

Through Mr. Tanmaya Mehta and Mr. Neeraj Kumar, Advocates

versus

NORTH DELHI MUNICIPAL CORPORATION AND ORS. ..... Respondents

Through Mr.Shekhar Vyas, Advocate for respondent no.1.
Ms. Shefali Vohra, Advocate for respondents no.2 and 3.
SI Kamaljeet Singh, P.S. Kashmere Gate.

\+ W.P.(C) 4514/2018

MADAN GOPAL ..... Petitioner

Through Mr. Tanmaya Mehta and Mr. Neeraj Kumar, Advocates

versus

NORTH DELHI MUNICIPAL CORPORATION AND ORS.
..... Respondents

Through Mr.Tushar Sannu, Advocate for respondent no.1.
Ms. Prabhsahay Kaur, Advocate for respondents no.2 and 3 along with AE(PWD) Mr. Haider.
SI Devender, P.S. Kotwali.

CORAM:
HON'BLE MR. JUSTICE G.S.SISTANI
HON'BLE MS. JUSTICE SANGITA DHINGRA SEHGAL

G.S.SISTANI, J. ***(ORAL)***

1. These three writ petitions under Article 226 of the Constitution of India have been filed by 14 petitioners, who claim to be Tehbazari holders at Khoya Mandi, Opposite to Old Delhi Railway Station, Delhi. The petitioners are aggrieved by the order dated 22.01.2018, by which they have been asked to remove from the sites in question. The aforesaid order was challenged by filing W.P.(C).nos. 696/2018 and 297/2018. The aforesaid writ petitions were disposed of by this Court by an order dated 19.04.2018. Leave was granted to the petitioners to assail the subsequent order, which had been passed by the respondent on 02.04.2018 by which the petitioners have been asked to shift to Subzi Market, Bagh Deewar, Delhi as the site in

question is required for the purpose of redevelopment plan for the construction of an integrated parking project by the PWD.

2. It is the stand of the counsels for the respondent North Delhi Municipal Corporation that another Division Bench of this Court is monitoring the development of Khoya Mandi area situated opposite the Old Delhi Railway Station, Delhi. The orders dated 31.01.2018 passed in the aforesaid writ petitions have been brought to the notice of this Court. It is the consistent stand of the Municipal Corporation that as per the statement made by the Municipal Corporation before the Division Bench, bids are to be finalized by 02.07.2018 and pursuant to the statement so made, tenders have been invited upto 03.05.2018. The final bids are being scrutinized and the tender is likely to be awarded to the successful bidder by 02.07.2018 and as per one of the conditions of the tender, the entire area which is to be developed for the construction of integrated parking project by the PWD is to be handed over to the contractor.

3. Mr. Mehta, learned counsel appearing on behalf of the petitioners submits that the area in question is not likely to be utilized in the near future having regard to the fact that there are other *pucca* structures which are required to be demolished by the PWD before the commencement of the work and with respect to those structures, neither possession has been taken nor the same have been demolished. In this backdrop, Mr. Mehta has submitted that the petitioners should be removed only when actual work commences as the petitioners are Tehbazari holders and belong to the poor strata of the society. We had

asked Mr.Rajan Sabharwal, learned counsel for the North Delhi Municipal Corporation to take instructions in the matter.

4. Today PWD is represented in Court by Ms. Prabhsahay, Advocate. Mr. Haider, AE(PWD) as also present. We are informed that possession of the sites which are to be removed or form part of the redevelopment plan have been taken and since the Division Bench is monitoring the construction, serious efforts are being made to finalize and complete the project within the time allowed and as per the tender document. Counsels for the respondents have highlighted that the entire area, including the area which is in possession of the petitioners is to be handed over to the contractor as it is one of the conditions of the tender, which cannot be varied and possession of the area cannot be handed over to the contractor piece meal.

5. At this stage, Mr. Mehta complains that the alternate sites, which have been offered to the petitioners, are not viable and it is, in fact, a dumping yard. Counsels for the North Delhi Municipal Corporation submits that prior to the handing over of the possession, the entire area will be cleared of all garbage and legitimate Tehbazari holders would be provided sites of 6 x 4 and legitimate kiosks holders would be provided kiosks of 7 x 5. Mr. Mehta submits that the petitioners shall accept this offer without prejudice to their rights as the sites offered are not viable and in hygienic condition and would approach the respondents for alternate sites. Petitioners seek reasonable time to vacate.

6. The petitioners undertake to hand over the possession on or before 03.07.2018, failing which as agreed, it will be open for the Municipal

Corporation to take possession without further notice to the petitioners, including the area subject matter of the writ petitions.

7. All the writ petitions stand disposed of as per the above agreed terms.

CM.APPL 17306/2018 in W.P.(C) 4502/2018
CM.APPL 17311/2018 in W.P.(C) 4504/2018
CM.APPL 17343/2018 in W.P.(C) 4514/2018

8. The applications are disposed of in view of the order passed in the writ petitions.

9. *Dasti* to the parties.

G.S.SISTANI, J.

SANGITA DHINGRA SEHGAL, J.

MAY 31, 2018
pst