

IN THE HIGH COURT OF DELHI AT NEW DELHI

% Judgment delivered on: 01.07.2019

+ **W.P.(C) 727/2013 & CM APPL. No. 1402/2013**

BALJIT SINGH BEDI

..... Petitioner

Versus

DELHI METRO RAIL CORPORATION LTD Respondent

Advocates who appeared in this case:

For the Petitioners : Mr Lovkesh Sawhney.

For the Respondent : Mr Pushkar Sood.

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HON'BLE MR JUSTICE VIBHU BAKHRU

JUDGMENT

VIBHU BAKHRU, J

1. The petitioner claims to be a Projected Affected Person (PAP) on account of implementation of the Delhi Mass Rapid Transit System (MRTS Project) and has filed the present petition, *inter alia*, praying that directions be issued to the respondent – Delhi Metro Rail Corporation Limited – (hereafter DMRC) to forthwith allot a shop at Bhai Veer Singh Marg Shopping Complex (hereafter 'BVSMSC') in terms of the orders dated 15.09.2008 and 17.09.2008 passed by the Division Bench of this Court in LPA 1609/2006 and other connected matters.

2. The petitioner claims that his father, Sh Makhan Singh (since deceased) was in occupation and possession of the shop bearing no. 116A located at Panchkuian Road, New Delhi for more than 45 years. It is claimed that late Sh Makhan Singh was carrying on the business in the name and style of Metro Furniture from the said shop.

3. It is stated that the petitioner's father, late Sh Makhan Singh expired on 08.11.1985 leaving behind his widow Smt Hardeep Bedi, the petitioner and a daughter, Smt Satinder Kaur, as his heirs. The petitioner claims that Smt Satinder Kaur is married and settled in her matrimonial home. He further claims that he has inherited the furniture business which was carried on by his late father under the name and style of Metro Furniture with the consent of all other legal heirs.

4. The petitioner claims that all other shopkeepers located at Panchkuian Road have been allotted alternate shops at BVSMSC under the "Relocation and Rehabilitation Policy in respect of the Project Affected Persons of all Categories due to the Implementation of Delhi MRTS Projects" in terms of the settlement arrived at before the Division Bench of this Court in LPA No. 1609/2006 and other connected matters.

5. The construction of Metro Lane-III was announced way back in 2003. At the material time, the erstwhile Municipal Corporation of Delhi (MCD) had conducted a survey to ascertain the PAPs. Admittedly, the petitioner's name was not included in the list prepared by MCD. This led the petitioner to file a writ petition W.P. (C) No.

1621/2003 for seeking consideration of his case for allotment of an alternative shop in lieu of shop no. 116A at Panchkuian Road occupied by him. However, the co-ordinate bench of this court dismissed the writ petition on 21.07.2004 on the grounds that in the absence of any documentary evidence in the form of payment of *tehbazari* fee, it could not be accepted that the petitioner or his father was allotted any site on *Tehbazari* or on licence basis at Panchkuian Road.

6. Aggrieved by the said order dated 21.07.2004, the petitioner filed an appeal (bearing **LPA No. 1074/2004**) before the Division Bench of this Court. The said appeal was also dismissed by the court by order dated 22.02.2005 as being meritless.

7. Thereafter on 25.08.2005 DMRC issued notices to various shopkeepers of shops located at Panchkuian Road informing them that their shops would be demolished by 30.09.2005 for widening/ provision of road/service lane/footpath. At this stage, the petitioner's mother filed another writ petition before this Court captioned "Smt Hardeep Kaur v. Delhi Metro Rail Corporation" being W.P. (C) 18349/2005, inter alia, seeking similar relief; that is allotment of an alternate shop in lieu of shop no. 116A which was stated to be occupied by the petitioner's father prior to his demise. The said writ petition was also dismissed by this Court by an order dated 23.11.2005. The said order is set out below:-

"The son of the Petitioner, namely, B S Bedi, has already approached this Court in its writ jurisdiction claiming entitlement for alternate allotment in respect of Shop No. 116-A, Panchkuain Road, New Delhi. He has stated that his father. Late Makhan Singh, was

carrying on business under the name and style of M/s. Metro Furnitures. The Writ petition was rejected by Orders dated 21.07.2004.

Stating inter alia, that there was insufficient material to rule in favour of the Petitioner even so far as his right to the property was concerned. A Letter patent Appeal was filed against the said judgment which also been dismissed in terms of Order of the Division Bench dated 22.02.2005. Instead of disclosing all these facts the petitioner has joined this batch of Shopkeeper. Shop No. 182,87-348/2005 ostensibly as the Shopkeeper, Shop No. 116-A (Metro Fortuned Panchkuin Road, New Delhi. The annals of the previous Litigation through her son, claiming to be a legal heir of Late Makhan Singh, (as the present petitioner would also be) has not been stated in the petition. Learned for the contends that this was because of the fact that subsequent to 22.02.2005. an offer has been made by the Delhi Metro Rail Corporation Limited (DMRC) to allot her an allot her site. As already noted above, the letter was addressed to the 'Shopkeeper' and not to a particular person by name. Once the entitlement of Shri B.S.Bedi has been rejected, the petitioner must sink along with that sterile that sterile claim.

In the Order of the learned Single judge it has been noted that the predecessor-in-interest, namely. Late Makhan Singh, stored some of his furniture's behind Shop No. 116-A and it was in that respect that Tehbazari was granted.

There has been a material suppression of facts in this case. The petition is dismissed, with exemplary costs of Rs. 20,000/- to be deposited within fifteen days with the Prime Minister's Relief Fund.”

8. The reliefs sought by the petitioner in the present petition, that is, seeking an alternate shop in lieu of shop No. 116A at Panchkuian Road which is claimed to be occupied by the petitioner, is covered by the earlier decisions of this Court and therefore no relief can be granted to the petitioner.

9. Having stated the above, this Court is also of the view that the present petition is unmerited as the petitioner cannot claim parity with the shopkeepers who have been leased shops at BVSMSC in terms of the settlement arrived at between the said shopkeepers and DMRC before the Division Bench of this Court in LPA No. 1609/2006 and other connect matters. This is so because the petitioner is neither a licensee nor a *Tehbazari* holder. The question whether DMRC is obliged to allot alternate shops to shopkeepers who were not licensees or *Tehbazari* holders has been considered and answered in the negative in a decision rendered today in ***Gurmeet Singh v. Delhi Metro Rail Corporation Ltd: W.P. (C) 1023/2012*** and in another connected matter.

10. In view of the above, the present petition is dismissed. The pending application is disposed of. The parties are left to bear their own costs.

VIBHU BAKHRU, J

JULY 01, 2019

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