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IN THE HIGH COURT OF DELHI AT NEW DELHI

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W.P.(C) 6396/2019

HEMANT AGGARWAL

..... Petitioner

Through: Mr. Vijay Gautam, Advocate

versus

MUNICIPAL CORPORATION OF DELHI AND ANR.

..... Respondent

Through: Ms. Mini Pushkarna, Standing
Counsel for SDMC/respondent No.1
and 2 with Ms.Shiva Pandey, Ms.
Latika Malhotra, Mr. Sanjay Gupta.

CORAM:

HON'BLE MS. JUSTICE HIMA KOHLI

HON'BLE MS. JUSTICE ASHA MENON

ORDER

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18.12.2019

Review Pet. No.310/2019

1. Learned counsel for the petitioner states that pursuant to the order dated 20.11.2019, he has filed some documents that include a copy of the circular dated 18.06.2014, issued by South Delhi Municipal Corporation, Central Licensing and Enforcement Cell and a copy of the order dated 18.05.2018, passed by the Supreme court in WP (C) No.4677/1985 entitled "*M.C. Mehta vs. Union of India and others*".

2. Learned counsel relies on the order passed by the Supreme Court in the captioned case, passed on an application for intervention filed by the *Rehri Patri Welfare Association*, wherein the statement of learned Additional Solicitor General was recorded. He submits that the petitioner falls under the category of “*those Vendors who come in the day time and go away in the evening or night or who may be moving from place to place.*” He submits that as the learned Additional Solicitor General had assured the Supreme Court that such like vendors will not be removed “*provided they have any authorisation or permission for vending at a specific location or who have applied under 2007 Scheme*”, and the petitioner herein having applied under the 2007 Scheme and his name features at Serial No.21454 of the said Scheme, he is entitled to the said protection.

3. The fallacy of the aforesaid argument is borne out from a perusal of the documents filed by the respondent/SDMC alongwith an affidavit filed on 17.12.2019, which includes the photographs of a full-fledged kiosk built and placed by the petitioner on a public space in the Community Centre, Basant Lok, Vasant Vihar, Delhi, that was removed by the Corporation. In the teeth of the fact that the petitioner had unauthorisedly built and placed a kiosk at the site, which is hardly a structure that can be picked up in the morning and placed at the site and taken away in the evening, he is not entitled to claim any protection under the order dated 18.05.2018, passed by the Supreme Court in the captioned case.

4. In view of the aforesaid position, we do not find any merit in the present review petition, which is dismissed.

5. In response to our directions on the last date to the respondent/SDMC as to whether they could waive/reduce the charges, the respondent/SDMC have expressed their inability to do so. In view of the fact that the petitioner had unauthorisedly placed a full-fledged kiosk at a public place, the respondent/SDMC shall release the confiscated goods and the structure to the petitioner subject to his paying the charges as leviable in this regard.

6. At this stage, learned counsel for the petitioner states that in terms of the order dated 24.09.2018, passed by a coordinate Bench in an earlier writ petition filed by the petitioner [WP(C) No.9956/2018], he had submitted an application alongwith supporting documents to the TVC but the said application has not been considered so far.

7. Ms. Pushkarna, learned counsel for the SDMC, states on instructions, that the TVC of the area is functional and the application filed by the petitioner (marked as Annexure 8), shall be taken up and decided within four weeks, under intimation to the petitioner.

HIMA KOHLI, J

ASHA MENON, J

DECEMBER 18, 2019

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