

\$~6

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ W.P.(C) 6671/2019 & CM APPL. 34217/2019 (for direction)
MAHBOOB AND ORS. Petitioners
Through Mr. Ramesh Kumar Mishra,
Advocate.

versus

SOUTH DELHI MUNICIPAL CORPORATION
AND ANR. Respondents
Through Ms. Arti Bansal, Mr. Ashutosh Nanda
Atrey, Advocates for SDMC.
Mr. Sumit Jidani, Advocate for R2.

CORAM:
HON'BLE MS. JUSTICE HIMA KOHLI
HON'BLE MS. JUSTICE ASHA MENON

ORDER
% **31.07.2019**

1. Vide order dated 31.05.2019, the respondent no. 1/SDMC was directed to consider the representations submitted by the petitioners no. 1-31 to the SDMC for permission to squat at the sites from where they have been removed. Though, no affidavit has been filed by the respondent no. 1/SDMC so far, learned counsel for the respondent no.1/SDMC hands over a copy of the letter dated 30.07.2019, addressed by the Assistant Commissioner, Central Zone to the counsel for the petitioners stating *inter alia* that in compliance with the orders passed by the Division Bench in W.P.(C) 5167/17 entitled 'Jamia Arabia Nizamia Welfare Educational Society Vs. DC(P)/Traffic, Southern Range and Ors' temporary encroachments have been removed from the area adjacent to the wall on the road leading to Hazrat Nizamuddin Dargah. It is further stated that the application of the

petitioners cannot be entertained for the reason that the area adjacent to the wall on the road leading to Hazrat Nizamuddin Dargah is a narrow lane without a footpath which remains congested and any blocking at the said site, creates a nuisance for the residents and the visitors. A copy of the aforesaid letter dated 30.07.2019 is handed over and taken on record with a copy furnished to the learned counsel for the petitioners.

2. Learned counsel for the petitioners states that even though the petitioners no.1-31 are not authorized *tehbazasri* holders, their eviction from the site in question is in violation of The Street Vendors (Protection of Livelihood and Regulation of Street Vending) Act, 2014. He submits that till the TVC conducts a survey in terms of the Scheme formulated by the Delhi Government, collects the data and prepares a list of the surveyed persons for issuing a certificate of vending, the petitioners herein cannot be removed from the site in question.

3. We are unable to agree with the submission made by the learned counsel for the petitioners. No doubt the Act and the Scheme lays down the manner in which the TVC will discharge its function. But there cannot be a vacuum pending finalization of the process culminating in issuance of a certificate of vending, more so when the egress and ingress of the local residents and visitors in the area is being obstructed and they are facing a nuisance on a daily basis on account of restricted movement in a narrow lane like in the present case that leads to a much venerated Dargah of Hazrat Nizamuddin. The claim of the petitioners to squat at the said site, which attracts several footfalls on a daily basis cannot take precedence over public interest. We are not inclined to grant the relief prayed for by the petitioners no.1-31 in the present petition for issuing directions to the respondent/SDMC

to permit them to resume their vending activity from their erstwhile vending sites adjacent to the wall on the road leading to Hazrat Nizamuddin Dargah, Delhi.

4. It is however made clear that in the event the TVC conducts a survey of the area in terms of the Scheme, the absence of the petitioners from the site in question will not be treated as the sole ground to reject their claims.

5. The petition is disposed of.

HIMA KOHLI, J

ASHA MENON, J

JULY 31, 2019/MK