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IN THE HIGH COURT OF DELHI AT NEW DELHI

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W.P.(C) 1694/2020 & C.M.Applns.5860-61/2020

KALLU KASHYAP

..... Petitioner

Through: Mr. Kamlesh Mishra and Mr. Bibhuti
Bhushan Mishra, Advocates

versus

SOUTH DELHI MUNICIPAL CORPORATION & ORS

.....Respondents

Through: Ms. Monika Arora, Standing Counsel
for respondent No.1/SDMC
Mr.Mananjay Mishra and Ms.Soema Chaudhary,
Advocates for respondents No.2 & 3

CORAM:

HON'BLE MS. JUSTICE HIMA KOHLI

HON'BLE MS. JUSTICE ASHA MENON

ORDER

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02.03.2020

1. On the last date of hearing, learned counsel for the respondent No.1/SDMC was directed to file an affidavit. Today, on the first call, we noticed that the affidavit was not on record. Ms. Monika Arora, learned Standing Counsel appearing for the respondent/SDMC was requested to contact the Registry and have the said affidavit placed on record.
2. Even on the second call, Ms. Arora states that the affidavit is still lying in the Registry as the same was filed belatedly, without a supporting application for condonation of delay. She hands over a copy of the affidavit, which is taken on record. Advance copy thereof has already been furnished to learned counsel for the petitioner.

3. The petitioner states that he has been vending flowers on a pavement adjoining S Block, Mother Dairy, Panchsheel Park, Malviya Nagar, since the year 1995. Learned counsel for the petitioner states that the grievance of the petitioner is that his peaceful vending activity at the above site is being disturbed by the officers of the respondent No.1/SDMC and the respondents No.2 & 3/Delhi Police.

4. It has been averred in the petition that besides submitting representations to the SHO, P.S. Malviya Nagar, DCP, Hauz Khas and the Deputy Commissioner, SDMC, the petitioner has already made a representation to the Town Vending Committee (for short, 'TVC') through the Deputy Commissioner, SDMC regarding the disturbance caused to his peaceful vending at the site. Hence the present petition.

5. The Assistant Commissioner, South Zone, SDMC states in the counter-affidavit that as per the record, the petitioner is neither a valid *tehbazari* holder, nor an approved squatter in the area in question; that he is a rank encroacher and not entitled to any relief; that pursuant to the proceedings held in **W.P.(C) 10606/2019**, entitled Panchsheel Co-operative House Building Society Ltd. v. SDMC and Anr., the Licensing Department of the SDMC had removed all encroachment in the area in question including the encroachment caused by the petitioner and had also informed the SHO of the area to keep a vigil so that there is no fresh encroachment. It has been averred that on 26.02.2020, when the Licensing Inspector of the area visited the site to ascertain the status, the petitioner was not found to be squatting there. Photographs in support of the said submission have been enclosed with the counter-affidavit.

6. As regards the documents filed by the petitioner alongwith the writ petition, which include challans for removing articles, release of articles, etc., it has been stated by the SDMC that the same are mere fine receipts, which cannot be a ground to validate the petitioner's encroachment on a pavement, which is meant for free movement of the public. Lastly, it is stated that if the petitioner has a grievance, he is entitled to approach the TVC for redressal under the provisions of the Street Vendors (Protection of Livelihood and Regulations of Street Vending) Act, 2014.

7. Learned counsel for the petitioner states that the petitioner has approached the TVC for relief and in this context, refers to the letter dated 01.02.2020, addressed by him to the TVC.

8. As Ms. Arora, learned counsel for the respondent No.1/SDMC states that the TVC of the area is functioning, it is for the petitioner to approach the TVC for appropriate relief. It is however made clear that when the survey of the area is conducted, the mere absence of the petitioner at the site in question will not be held against him and the documents that he had filed alongwith his representation, shall be duly taken into consideration by the TVC for passing appropriate orders.

9. At this stage, learned counsel for the petitioner states that the respondent/SDMC has not even published a notice, informing the public at large about the venue where the TVC is conducting its proceedings, for an aggrieved party to make a representation. He states that this is true not only for the SDMC, but all other civic authorities except for the NDMC.

10. It is deemed appropriate to direct the respondent/SDMC and all other civic authorities to ensure that the details of the TVC and their offices are

displayed on their respective websites, so that the said information comes in public domain for aggrieved parties to approach the TVC. Needful shall be done within two weeks from today. As Nr.D.M.C. and EDMC are not parties in the present petition, copies of this order shall be dispatched by the Registry forthwith to the Commissioner, Nr.D.M.C. and EDMC for information and compliance.

11. The present petition is disposed of alongwith the pending applications.

HIMA KOHLI, J

ASHA MENON, J

MARCH 02, 2020

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