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* IN THE HIGH COURT OF DELHI AT NEW DELHI

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Decided on: 21.09.2022

+ **W.P.(C) 13303/2022**

RAHUL DHAKA VIKAS SOCIETY REGD. Petitioner

Through: Mr. Mohit Gupta, Mr. Ankit Jain and
Mr. Vishal Saxena, Advocates.

Versus

DELHI DEVELOPMENT AUTHORITY AND ORS Respondents

Through: Ms. Manika Tripathy, Standing Counsel
with Mr. Roshan Kumar & Mr. Manish
Vashist, Advocates for DDA along with
Mr. Surender Kumar Gupta, Contractor
& Mr. Baldeep Singh, DDA official.

CORAM:

HON'BLE MR. JUSTICE VIKAS MAHAJAN

VIKAS MAHAJAN, J. (ORAL)

The hearing has been conducted through hybrid mode (physical and virtual hearing).

CM No.40356/2022(for exemption)

1. Allowed, subject to all just exceptions.
2. The application stands disposed of.

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3. The present writ petition has been filed by the petitioner seeking the following reliefs:



“i) issue immediate directions to the Respondent No.1 to permit the Petitioner Society to use the land at Indra Park, Jalebi Chowk, Sultanpuri, Delhi for holding/organizing/staging religious/social functions on account of Ramleela from 25.09.2022 till 05.10.2022;

ii) earmark/allow/permit any other similarly situated park/land in the vicinity to the Petitioner society to use for holding/organizing/staging religious/social functions on account of Ramleela from 25.09.2022 till 05.10.2022;”

4. The petitioner is a society registered under the Society Registration Act, 1860 and has been organizing religious and social functions from time to time. The petitioner had also been organizing a *Ramleela* every year at Indra Park, Jalebi Chowk, Sultanpuri, Delhi which is a park owned by the DDA and is presently being used as a playground by children.

5. The learned counsel for the petitioner submits that the park in question has two parts: one of which has been allotted for the construction of a hospital, whereas the other part has been reserved by the respondent no.1/DDA for developing a Sports Complex. He further submits that on the portion of the park reserved for the Sports complex, no construction has been undertaken. Drawing the attention of the Court to the photographs filed by the DDA along with its counter affidavit, the learned counsel submits that neither the boundary wall has been erected nor any digging has commenced.

6. He further submits that the petitioner/society had made a representation to the respondent no.1/DDA as early as 11.07.2022 requesting for grant of NOC for organizing a *Ramleela* function from 25.09.2022 to 05.10.2022 which was followed by reminders dated 03.08.2022 and 10.08.2022. He submits that as no construction has yet been started on the land reserved for developing



Sports Complex, therefore DDA could have granted permission to the petitioner for organizing a *Ramleela* function in the said park.

7. The learned counsel for the respondent no.1/DDA, on the other hand, refutes the above contentions of the petitioner. She submits that the respondent no.1/DDA has filed its counter affidavit wherein it has expressed its inability to grant permission to the petitioner/society to use the said land for staging a *Ramleela* function from 25.09.2022 to 05.10.2022 on the ground that the part of the land which had been reserved for developing the Sports Complex has been transferred to the respondent no.3 for construction and a work tender has already been awarded to M/s. Surender and Company vide Award Letter No.F.4(18)EE/SMC/DDA/2022-23/270. Moreover, the site in question has also been handed over to the agency and the construction work has already begun. The relevant paragraphs of the counter affidavit read as under:-

“3. That the DDA is unable to grant the permission to the petitioner society to use the said land for organizing religious/social function from 25.09.2022-05.10.2022 because the said plot of land has been sub-divided and a portion of the said land has been handed over for the construction of hospital and the construction of the same is under progress. The remaining part of land has been transferred to Respondent no. 3 ie Executive Engineer, Sports Management Cell, SBS Stadium Siri Fort, New Delhi in 2019 for the scheme for construction of sports complex and a work tender has been already awarded and the site has been handed over to the construction agency and construction work has already commenced at the remaining portion of land. The photographs depicting construction of Hospital and Sports complex has been annexed as Annexure R1.



4. That the said plot of land has been sub-divided. One part has been handed over to the other department and they have started to construct a hospital over it. The balance portion of land was transferred to respondent no. 3 i.e. Executive Engineer, Sports Management Cell, SBS Stadium, Siri Fort, New Delhi in 2019. The scheme for construction of sports complex at FC-58 Sultanpuri was passed in 372nd Screening Committee vide item no. 94:2019 held on 27.08.2019. Now, a construction work amounting to Rs 92,22,283.98/- has been already awarded to M/s Surrender and company vide award letter no. F.4(18)EE/SMC/DDA/2022-23/270. The site has been handed over to the agency and the construction work has already begun at the site. Levelling survey of the site has been done, C&D waste (screened soil) has been procured at the site by the agency. The same is being spread for leveling of the site. The foundation work for construction of guard room is completed and the brickwork for guard room and layout for walking path and various other play courts is in progress. It is also submitted that Development work at plot no. FC-58, Sultanpuri, Delhi is being done as per the provisions of Master plan. The copy of Award letter, handing over has been Annexed as ANNEXURE- R2 (Colly).

5. That the status of the said land and the information about the ongoing construction activity has been already conveyed to the representatives of the petitioner society telephonically and also during their visits to the DDA office. The representation of the petitioner society has been replied vide letter no. F.12(85)/2022/booking/Misc./RZ/DDA/665 dated 16.09.2022 and the same has been annexed as ANNEXURE-R3.

6. That, since the site has been already handed over to the construction agency on 01.08.2022 and construction work at the said land has already Commenced and is going on in full swing



respondent finds it extremely difficult to grant permission for holding religious/social gathering at the said land.

7. That there is strong likelihood of damage to the constructed structures and other ongoing construction if the respondent is directed to hand over the said plot of land for religious/social gathering and the respondents would suffer irreparable loss and would also hamper the pace of construction. Further, it will have a dampening effect on the construction of the Sports Complex, which has been undertaken from August 2022, and the same forms part of the Contract entered by DDA with the Construction agency.”

8. Inviting the attention of the Court to the copy of the Award Letter dated 28th July 2022, the learned counsel for DDA submits that the time allotted for construction of the Sports Complex on the land in question is 120 days and the same has to be reckoned from the 10th day after the date of issue of the said letter to commence work. The letter further cautions that in case the agency/contractor i.e. M/s. Surrender and Company failed to commence the work as specified, the Award Letter will be withdrawn by the DDA and the earnest money and performance bank guarantee will be forfeited. The relevant part of the Award Letter reads as under:

“Please note that the time allowed for carrying out the work will be reckoned from the 10th day after the date of issue of this letter to commence the work. Further if you fail to commence the work as specified above, the award letter will be withdrawn by DDA without prejudice to any other right or remedy available on law will be at liberty to forfeit the Earnest Money and performance guarantee absolutely.”

9. The learned counsel for the respondent no.1/DDA further submits that out of the period of 120 days (four months), a period of more than one month



has already elapsed and almost two and a half months are left to execute the awarded work. In case the land in question is handed over to the petitioner/society for organizing a *Ramleela* for a period of ten days, precious time will be lost which will have the effect of delaying the project. Furthermore, the delay caused will adversely affect the construction being undertaken at the site in question. This Court finds substance in the stand taken by the respondent no.1/DDA. It is not a case where the land is lying barren and is not being put to any use for the time being. After the award of work to the above-mentioned agency, the site has also been handed over and the construction work also appears to have begun, as is evident from the photographs annexed with the counter affidavit. The photographs also reveal that some foundation has already been laid and heaps of earth, as well as bricks, have been stacked to carry out the construction work. The period of 120 days for the construction of the Sports Complex has already commenced and handing over the land to the Society will delay the time-bound construction. That apart, any delay is likely to cause prejudice to the public at large for whose larger benefit the Complex is being constructed. The petitioner/society also does not otherwise have any vested right to ask for the allotment of the site in question. Merely, because earlier the DDA had been permitting petitioner/society to organize a *Ramleela* does not furnish a cause to the petitioner to claim any vested right to seek for allotment of the said site for a social function.

10. The learned counsel has placed reliance on an order dated 12.10.2014 passed by this Court in WP(C) No.16148/2014 to contend that this Court had, on an earlier occasion, allowed the land reserved for a park to be used for



Ramleela and *Vijay Dashmi* celebrations. This Court has considered the said order and finds that the same is distinguishable on facts. In the said case, the park which was allowed to be used for organizing *Ramleela* and *Vijay Dashmi* celebrations was a barren land and the same was not under any development project unlike the land in the present case. Therefore, the aforesaid decision of this Court shall not enure to the benefit of the petitioner. This being the position, there is no merit in the writ petition. In the circumstances, the same is dismissed.

VIKAS MAHAJAN, J

SEPTEMBER 21, 2022

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