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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Date of decision: 19th January, 2023

+ **W.P.(C) 11202/2022 and CM APPL. 32905/2022**

KAPTAN

..... Petitioner

Through: Mr. Bibhub Bhushan Mishra, Mr. Raghunath Pathak, Ms. Shivalika and Mr. Kamlesh Kumar Mishra, Advocates. (M:9999517030)

versus

UNION OF INDIA THROUGH THE LAND AND
DEVELOPMENT OFFICE AND ORS

..... Respondents

Through: Mr. Sushil Kumar Pandey, Sr. Panel Counsel with Mr. Kuldeep Singh and Mr. Abhigyan Siddhani, Advocates for R-1 to 4 & 7. (M:9999999045, 9873099031)
Mr. Anuj Chaturvedi and Ms. Jyoti Kashyap, Advocates for R-2/DUSIB. (M:9810473166)
Ms. Avni Singh, Advocate for R-9. (M:9958018998)
Mr. Ankur Chhibber, ASC for NDMC/R-6. (M:9810082847)

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WITH

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W.P.(C) 11204/2022 and CM APPL. 32908/2022

DINESH KUMAR SINGH

..... Petitioner

Through: Mr. Bibhub Bhushan Mishra, Mr. Raghunath Pathak, Ms. Shivalika and Mr. Kamlesh Kumar Mishra, Advocates.

versus

UNION OF INDIA THROUGH THE LAND AND
DEVELOPMENT OFFICE AND ORS

..... Respondents

Through: Ms. Monika Arora, CGSC with Mr.

Yash Tyagi, Advocate for R-1, 4 & 7.
(M:9511676829)

Ms. Sweety Singh, Advocate for R-3,
8 & 9. (M:9810488115)

Mr. Ankur Chhibber, ASC for
NDMC/R-6.

Mr. Ajay Vikram Singh, Advocate.
(M:9868632122)

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AND

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W.P.(C) 11207/2022 and CM APPL. 32914/2022

POONAM DEVI

..... Petitioner

Through: Mr. Bibhu Bhushan Mishra, Mr.
Raghunath Pathak, Ms. Shivalika and
Mr. Kamlesh Kumar Mishra,
Advocates.

versus

UNION OF INDIA THROUGH THE LAND AND
DEVELOPMENT OFFICE AND ORS.

..... Respondents

Through: Mr. Neeraj, Sr. Panel Counsel with
Mr. Sahaj and Mr. Vedansh Anand,
Advocates for UOI. (M:8076802450)
Mr. Abhinav Singh and Mr. Manish
Gupta, Advocates for R-3, 8 & 9.
(M:9811188892)
Ms. Kanika Agnihotri, Advocate for
R-6/NDMC. (M:9968791199)

CORAM:

JUSTICE PRATHIBA M. SINGH

Prathiba M. Singh, J.(Oral)

1. This hearing has been done through hybrid mode.
2. The Petitioner in *W.P.(C) 11202/2022* titled '*Kaptan v. Union of India through the Land and Development Office and Ors,*' is a resident of

Netaji Nagar and is stated to be living in a *Jhuggi* for the last 40 years. She works as a *Dhoban* in the area.

3. The Petitioner in *W.P.(C) 11204/2022* titled '*Dinesh Kumar Singh v. Union of India through the Land and Development Office and Ors.*' is also a resident of Netaji Nagar and is stated to have been living in *Jhuggi* for the last 18 years. He works as a daily wage labourer for the residents of the area.

4. The Petitioner in *W.P.(C) 11207/2022* titled '*Poonam Devi v. Union of India through the Land and Development Office and Ors.*' is also a resident of Netaji Nagar and is stated to have been living in *Jhuggi* for the last 40 years. She works as Housekeeping staff and other menial jobs.

5. The Petitioners in all these three connected cases claim to have all the necessary documents to prove that they are residing in the said *Jhuggis* in Netaji Nagar for a long period.

6. The prayer in all these three connected writ petitions is that the redevelopment of Netaji Nagar has commenced, and there is a threat that they may be evicted from the said *Jhuggis*. The prayers in all these petitions are common and read as:

I. Pass an order for quashing for setting aside the notice dated 04.04.2022 passed by Ministry of Housing & Urban Affairs.

II. Pass an order directing the respondent L&DO to produce before this Hon'ble Court the policy adopted by it for the rehabilitation of the slum dwellers of the Netaji Nagar in terms of clause 2.6 of the MOU entered into by the Ministry of Housing and Urban Affairs and NBCC dated 25.10.2016

III. Pass an order directing Respondents to cease any further evictions or harassment of resident Slum

Dweller of the Netaji Nagar area that live in the abovementioned area until appropriate rehabilitation in accordance with the prayers in the present petition.

IV. Pass an order directing the authorities to ensure that proper arrangement for the ingress and egress from the Jhuggies to the main road of the member slum dwellers of the petitioner organisation be ensured and the same be not inhibited on account of construction in the area.

V. Pass an order directing the respondents to place on record all the details, Data, documents pertaining to the Netaji Nagar Area and its redevelopment before this Hon'ble court.

VI. Pass an order directing the respondent NBCC to share the details and list of the survey of the slum dwellers conducted by it and also to place the details of the said survey on record of this Hon 'ble court.

VII. Pass an order directing the Authorities to conduct a joint survey to determine the total number of hutments in the Netaji Nagar, Area with the help of DUSIB and determine their eligibility for rehabilitation in accordance with the policy of DUSIB.

VIII. Pass an order directing the respondent Authorities to place on record the action taken report on the complaints/representations made by the petitioner organisation as well as other resident slum dwellers as detailed in the present petition.

IX. Pass any such directions or order that this Hon'ble Court deems fit and proper in the facts and circumstances of the above-mentioned case.

7. The Petitioners rely on a Memorandum of Understanding (MoU) dated 25th October, 2016 between the Ministry of Urban Development and NBCC which covers Netaji Nagar, Sarojini Nagar and Nauroji Nagar to highlight their concern. Ld. Counsel points out Clause 2.6 which reads as under:-

“2.6 L&DO shall take action for relocation and rehabilitation of JJ Clusters, if any, existing in these colonies to alternative accommodations. They shall work out detailed rehabilitation and relocation plan, which may affect the progress of work, in advance.”

8. As per the above Clause, the L&DO is to take the required action for relocation and rehabilitation of the JJ clusters and they would work on rehabilitation and relocation plan.

9. Accordingly, it is prayed that the eviction notice issued on 4th April, 2022 should be stayed and the rehabilitation policy should be directed to be framed by the L&DO and the Authority should cease any further eviction.

10. Ld. Counsel for the Respondent- L&DO points out that in respect of Sarojini Nagar which the same MoU also covers, the Supreme Court has taken cognizance of the matter in *SLP Civil Diary No. 12350/2022* titled ***‘Vaishali (minor (through Next Friend Mrs. Sita Devi) and Ors. v. Union of India and Ors.’*** In the said matter, vide order dated 25th April, 2022, an undertaking by the ld. ASG was recorded, that no coercive measures would be taken against the occupants of the *jhuggis* of Sarojni Nagar. The said order reads as:

Mr. K.M. Nataraj, learned Additional Solicitor General, who has been served with a copy of the special leave petition just today, seeks time to address the Court.

List the matter on 02nd May, 2022.

We record the submission of the learned Additional Solicitor General that no coercive steps will be taken till the next date of hearing.

11. In the said matter vide order dated 2nd May, 2022 the submission on behalf of the Revenue has been noted of the Id. ASG to the following effect:-

“Mr. K. M. Nataraj, learned Additional Solicitor General, on instructions, would submit that a nodal officer will be appointed and it will be open to the petitioners to submit details regarding (1) location of the Jhuggi;(2) duration of their stay in that location; (3) any document supporting such details; (4) details of the 172 families (family members) as mentioned in Annexure P-1; (5) the details of the income and the vocation being carried out by them.

Such details as mentioned above will be made available within 10 days from today to Nodal Officer:

*Shri Shiv Kumar Mishra,
Section Officer, Land and Development Office,
Ministry of Housing and Urban Affairs,
Government of India,
Room No. 638, 'A' Wing,
Land and Development Office,
Nirman Bhavan, New Delhi - 110001.
(Email Id: shivk.mishra@gov.in)
(Mob : +91 9911863486) .*

It will be open to the nodal officer to carry out the necessary physical verification on the basis of the details given on all the aspects.

List the matter in the third week of July, 2022.

Undertaking given by the learned Additional Solicitor General will continue till the next date of hearing.

The present exercise will be without prejudice to the rights and contentions of both the sides.

Impleadment application (D. No. 65762/2022) by Sarojni Nagar Jhuggi Jhopri Vikas Samiti is disposed of by relegating the applicant before the High Court where counsel states petition is pending, where it can seek appropriate remedy. Application for impleadment stands disposed of.”

12. This order has been reiterated on 18th July 2022, which reads as under:-

Mr. K. M. Nataraj, learned Additional Solicitor General, would submit that on the receipt of details, the matter is being processed. List the matter after a month.

13. Accordingly, Mr. Sushil Kumar, Id. Counsel for the Respondents submits that the Petitioner would have to approach the Nodal officer who has now been appointed by the L&DO and submit all the details, including the documents so as to enable physical verification.

14. In view of the fact that the MoU which covers Sarojini Nagar is the same as the one which covers Netaji Nagar and considering the Petitioners herein are residents of Netaji Nagar, the orders passed by the Supreme Court ought to apply *qua* the Petitioners in these cases as well.

15. Accordingly, the Petitioners are permitted to appear before the Nodal Officer as captured above in paragraph 11 above, in order to enable physical verification of the Petitioners' *jhuggis* and their documents. The interim protection granted in respect of the *jhuggis* in Sarojini Nagar, in terms of the orders passed in the above SLP i.e., ***Vaishali (Supra)*** would also accrue to the Petitioners in these three writ petitions as well, given the submissions made by the L&DO.

16. The Petitioners are free to approach the Nodal officer of the L&DO for the verification and further processing of their claims. The Petitioners shall be bound by any mechanism evolved in respect of similarly placed persons, subject to the verification of their credentials.

17. With these above directions, the present three petitions with all pending applications, if any, are disposed of. No further orders are called for in these matters.

**PRATHIBA M. SINGH
JUDGE**

**JANUARY 19, 2023
MR/AM**

