



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

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Date of decision: 22nd November, 2023

+ W.P.(C) 15147/2023 & CM APPL. Nos.60541-60544/2023

(62) RAM PAL

..... Petitioner

Through: Mr. Sanjoy Ghosh, Sr. Adv. with
Mr. Talha Abdul Rahman, Mr. Adnan
Yousuf, Mr. M. Shaz Khan and
Ms. Gayatri Dahiya, Advs.

versus

UNION OF INDIA THROUGH L&DO
AND ORS.

..... Respondents

Through: Mr. Chetan Sharma, ASG with
Mr. Kirtiman Singh, CGSC,
Ms. Pratima Lakra, CGSC with
Mr. Amit Gupta, Mr. Waize Ali
Noor, Mr. Saurabh Tripathi, Mr.
Vikramaditya Singh and Ms. Vidhi
Jain and Ms. Shreya Mehra, Advs.
UOI.
Mr. Dev P. Bhardwaj, Ms. Abubha
Bhardwaj and Mr. Sachin Singh,
Advs. for UOI
Mr. Santosh Kr. Tripathi, Standing
Counsel (Civil), GNCTD with
Mr. Rishabh Srivastava, Adv. for R2.
Mr. Parvinder Chauhan and
Ms. Aakriti Garg, Advs. for
respondent DUSIB with Mr. Vijay
Maggo (Law Officer) and Mr. Pranav
Siroha, Legal Assistant

CORAM:

HON'BLE MR. JUSTICE V. KAMESWAR RAO

HON'BLE MS. JUSTICE MANMEET PRITAM SINGH ARORA



V. KAMESWAR RAO, J. (ORAL)

CM APPL. Nos.60541/2023, 60543/2023 & 60544/2023

Exemption allowed subject to all just exceptions.

Application is disposed of.

W.P.(C) 15147/2023

1. This writ petition has been filed by the petitioners with the following prayers:-

“WHEREFORE, the Petitioner above-named humbly prays that this Hon’ble Court may be pleased to:

a. Issue a writ of certiorari after calling for the records of exemption dated 21.11.2023 granted by CAQM to Respondent No.1 exempting compliance of GRAP III for demolition of JJ Cluster #223 Khasra No. 484 near DPS Mathura Road, New Delhi, and to quash the same after examining its correctness; and further to lay down guidelines as to when (if any) an exemption from GRAP restriction can be granted;

b. Issue a writ, order or direction in the nature of certiorari quashing the order dated 17.11.2023 issued by Deputy, L&DO fixing the date of demolitions between 21.11.2023 to 23.11.2023 and other directions, as being contrary to Articles 14, 17, 19, and 21, in violation of the law laid down by this Hon'ble Court in Ajay Maken v. Union of India (2019) 260 DLT 581 (DB);

c. Issue a writ of mandamus, order or direction in the nature of mandamus commanding the Respondents to rehabilitate the Petitioner and other similarly situated persons who have been recognized by DUSIB as dwellers of Cluster #223 of 675 Cluster identified by DISUB, in accordance with the DUSIB Act and paras 170 & 196 etc. of the law laid down by this Hon'ble Court in Ajay Maken v. Union of India (2019) 260 DLT 581



(DB) and to compel L&DO to send the proposal to DISUB, for the same in accordance with law, within a time framed by this Hon'ble Court;

d. Grant such other relief or further directions as this Hon'ble Court deems fit to grant in the facts and in the circumstances of the case."

2. The submission of Mr. Sanjoy Ghose, learned Senior Counsel for the petitioner is that the respondents could not have undertaken the process of demolishing the construction on Khasra No. 484 near DPS Mathura Road, New Delhi by virtue of an exemption granted by CAQM from GRAP III restrictions. According to him, the exemption appears to have been granted in abuse of powers vested with it. The exemption granted in such haste and which order has not been shown to the petitioner or the Court is being used to demolish jhuggi jhopris belonging to notified and protected JJ Basti, DPS Mathura road. In fact, it is his submission that no rehabilitation has been undertaken and the petitioner is about to be left homeless due to the actions of the respondents.

3. According to him, the order for whose alleged compliance the demolition is being undertaken was passed on August 23, 2019, four years ago and demolition is being undertaken with great haste without rehabilitating the petitioner and in extreme hurry violating all the directions passed by this Court in ***Ajay Maken v. Union of India & Ors., W.P.(C) 11616/2015***, decided on ***March 18, 2019***. That apart, he also relies upon the survey carried out by the DUSIB in the year 2012 wherein the DUSIB had named 212 families as part of the JJ Cluster and who are entitled to the benefit of rehabilitation and relocation policy.



4. The submissions made by Mr. Ghose are not appealing for the simple reason that the action which is sought to be taken by the respondents is pursuant to the orders passed by this Court in contempt petition being Cont.Cas.(C) 519/2012, which has been filed seeking compliance of order dated January 12, 2011 passed in W.P.(C) No. 3927/2020 and W.P.(C) No. 1512/1984. As per the said order, it was directed that the Union of India shall take appropriate steps for removal of unauthorized encroachment and unauthorized construction in Khasra No.484 near DPS Mathura road. In fact, the Court in the said contempt petition went on to observe in its order dated October 19, 2023 that in case the unauthorized constructions are not removed and a satisfactory status report is not filed, the Court would be constrained to initiate contempt proceedings against the land-owning department and its officers.

5. Insofar as the plea of Mr. Ghose that the exemption from following the GRAP-III restrictions is illegal is concerned, suffice to state that the learned Single Judge in a different contempt petition being Cont. Cas.No.1697/2023 ***Mustaqim v. Mathu Rani Tewatia and Ors.*** decided on November 21, 2023 stated in paragraph 5 as under:-

“5. The orders passed by the Court from time to time shall be complied with, subject to the GRAP III restrictions and/or exemptions, as and when granted.”

6. In view of the aforesaid observation of the Court and it is the case of Mr. Kirtiman Singh that the exemption has been granted in respect of GRAP-III restriction and as such, the demolition is permissible, is appealing. The action cannot be faulted.

7. Insofar as the connected prayers are concerned, the same are without



any merit for the reason stated by us and also for the reason that the issue with regard to the benefit of the policy for rehabilitation having been settled by the learned Single Judge in W.P.(C) No. 9285/2018 vide order dated January 16, 2019, which has been upheld by this Court in LPA No.115/2019 vide order dated February 18, 2019.

8. The writ petition and the connection application are dismissed. No costs.

CM APPL. No.60542/2023

Dismissed as infructuous.

V. KAMESWAR RAO, J

MANMEET PRITAM SINGH ARORA, J

NOVEMBER 22, 2023/ak