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

+ **W.P.(C) 1911/2024, CM APPL. 18520/2024**

PAPER MATE PVT. LTD.

.....Petitioner

Through: Mr. Dhruv Panday, Mr. Randeep
Sachdeva, Mr. Shivang Gupta,
Advocates.

versus

MUNICIPAL CORPORATION DELHI & ORS.Respondent

Through: Mr. G. S. Oberoi, SC, Mr. Ankur
Sharma, Advocate.
Mr. Shoeb Shakeel Av And Sagim
Khan Adv.

CORAM:

HON'BLE MR. JUSTICE PURUSHAINDRA KUMAR KAURAV

ORDER

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01.08.2024

1. The respondent-Corporation has placed on record a short counter affidavit and the following position has been taken in paragraph nos. 2 to 7:-

"2. That the Petitioners have filed the above mentioned writ petition inter alia praying of A. Issue a Writ of Mandamus against the Respondents No. 1 - 2 thereby, directing Respondent No. 1 - 2 to inspect and take actions as per law against the illegal & unauthorized construction of Juice Stall and dwelling and encroachment done by the Respondent No. 3 at the site right adjacent to the Petitioner's premises, at the cost of Respondent No. 3; B. Issue a Writ of Mandamus thereby against the Respondents No. 1- 2 thereby directing Respondent No. 1 - 2 to permanently seize all the equipment of the Juice Stall operated by the Respondent No. 3.; C. Issue a Writ of Mandamus thereby directing Respondent No. 1 - 2 to take appropriate action as per law against Respondent No. 3 as per law including initiation of prosecution against him; D. Issue a writ of mandamus against Respondent No. 1 and No. 2 to take action in the event of any re-encroachment and/or further encroachment; E. Pass such other orders or directions or writs as it may deem fit & proper in the facts of the present case and in the interest of Justice.

3. That in view of the relief sought by the Petitioner herein, the Answering



Respondent inspected the subject property on 07.02.2024, wherein, an encroachment in the shape of temporary illegal / unauthorized structure for selling of Fruit Juice was noticed. Subsequently, in accordance with the law, the said temporary encroachment was removed by the Answering Respondent on 08.02.2024, whereby, the temporary structure was removed and articles of the No. 3 were seized. The photographs of the removal of the temporary encroachment are already annexed with the status report filed by the Answering Respondent.

4. Thereafter, to ascertain the status of the subject site, the field staff of the Health Department of Central Zone of the Answering Respondent on 17.03.2024 and 18.03.2024 again inspected the subject site. During the said inspection no encroached was found at the subject site. The Photographs of the inspection 17.03.2024 and 18.03.2024 are already annexed with the status report filed by the Answering Respondent.

5. That on 25.07.2024 the subject site was again inspected by the officials of the Answering Respondent, wherein, it was found that the Respondent No. 3 had again encroached the subject site and is selling fruit juice & sugarcane juice. It is most respectfully submitted that in order to remove the aforesaid encroachment done by the Respondent No. 3, action was taken by the Answering Respondent on 27.07.2024, wherein, the said temporary encroachment was removed from the subject site. Further, in order to ascertain that the Respondent does not encroach the subject site in the future again, a letter bearing no. DHO/CNZ/2024/D_-882_ dated 27.07.2024 for watch and ward was sent to the SHO, South-East District, Police Station Sarita Vihar, New Delhi, 110076. It is pertinent to mention here that another letter dated 27.07.2024 was sent to the Assistant Commissioner, MCD regarding a Joint Encroachment Removal Action programme in Mohan Co-operative Industrial Area, New Delhi. Copy of the letter dated 27.07.2024 for watch & ward to the SHO and copy of the letter dated 27.07.2024 to the Assistant Commissioner, MCD are annexed herewith and marked as ANNEXURE - 1 (Colly).

6. It is most respectfully submitted that the Respondent No. 3 had filed an Application bearing No. CM APPL 18520/2024 inter alia praying for a) Direct the Respondent not to obstruct in the smooth functioning of his shop without any hindrance till the final disposal of the case; b) Pass any other or further orders as this Hon'ble Court may deem fit and proper in the interest of justice and in circumstances of the case.

7. That the Respondent No. 3 had annexed a copy of the Vending Certificate along with the aforesaid Application as Annexure - 2. It is most respectfully submitted that from the bare perusal of the said vending certificate, the Respondent No. 3 is allowed to sell fresh fruits and vegetables only, whereas, the Respondent No. 3 is selling Fruit Juice at the subject site, which is in violation of the Vending Certificate. It is pertinent to mention here that the respondent No. 3 had not disclosed the terms and conditions of the aforesaid Vending Certificate. It submitted that the terms and conditions of the Certificate of Vending issued by the Answering Defendant the said terms and conditions are as follows:



- i. Vendor shall not have any other permanent or long-term vending certificate.*
- ii. Vending certificate is non-transferable.*
- iii. It is mandatory for the vendor to follow the vending period and zone as determined by TVC or local body.*
- iv. Vendor shall not give his vending certificate on rent in any way.*
- v. Vendor shall not have any infectious disease.*
- vi. Vendor shall have to take care of hygiene on vending place/zone and nearby area and also take care of public health.*
- vii. Vendor shall display copy of vending certificate on his place/vending site and will produce original documents to TVC/concerned inspector whenever required.*
- viii. Vendor/Squatter shall insure that no hindrance be caused to pedestrian and vehicular moment.*
- ix. Vendor shall not vend/sell any harmful, dangerous and polluted items. It should also be ensured that the quality of the products sold and services provided to the public conform to the prescribed standards of public health, hygienic conditions and safety.*
- x. The street vendor shall not do any unauthorized/illegal activity.*
- xi. Mobile vendors shall not stay or vend more than 30 minutes or time prescribed by the TVC at place in a vending/squatting zone.*
- xii. Vendors will not block footpaths and will not vend on roads. Vendor should take care of space in front of vending stalls/counters on footpath for pedestrians.*
- xiii. Vending certificate can be cancelled or suspended on the basis of violations.*
- xiv. Vendor shall not build or construct any kind of permanent or temporary structure at vending site.*
- xv. Seller shall adopt health and hygiene conditions as required by local laws and court orders,*
- xvi. Vendor have to follow all the conditions mentioned in Delhi Street Vendors (Protection of Livelihood and Regulation of Street Vending) Scheme, 2019."*

It is most respectfully submitted that the Respondent No. 3 is not following the aforesaid terms and conditions of the Certificate of Vending and had encroached Govt. / Public land. Thus, he is liable to be removed from the subject site.

2. Learned counsel appearing for the petitioner submits that the respondent-Corporation has recently taken action on 27.07.2024 by issuing a watch and ward notice to the concerned SHO. Consequently, as of 27.07.2024, the petitioner's grievance appeared to be resolved. However, to the petitioner's astonishment, the private respondent has once again attempted to encroach upon the Government



land, thereby, reinstating the same activity that the respondent-Corporation had previously addressed and had taken action against.

3. The Court is of the considered opinion that the relief sought in the present writ petition pertains to a matter of recurring nature. The Court, therefore, finds it impracticable to issue a continuing mandamus in light of the action taken by the respondent. Nevertheless, the petitioner is granted liberty to approach the respondent-Corporation or the concerned police station should any future grievance arise. The Court is of the belief that any such request made by the petitioner shall be addressed with due diligence and in accordance with law.

4. With the aforesaid observation, nothing more requires to be adjudicated.

5. Accordingly, the petition stands disposed of.

PURUSHAINDR KUMAR KAURAV, J

AUGUST 1, 2024/KG