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IN THE HIGH COURT OF DELHI AT NEW DELHI

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LPA 196/2024 CM APPL. 13501/2024 CM APPL. 13502/2024 CM APPL. 13503/2024

AMIT YADAV AND ORS

..... Appellants

Through: Mr. Shriharsha Peechara, Standing Counsel with Ms. Devika Mohan, ASC, Ms. Harshita Gupta, Mr. Akshat K. and Mr. Shubham Kumar Mishra, Advs.

versus

MAHESH KUMAR AND ORS

..... Respondents

Through: Respondent No.1 in person.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

HON'BLE MS. JUSTICE TARA VITASTA GANJU

ORDER

05.03.2024

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1. Issue notice.
2. The respondent no.1, who appears in person, accepts notice. We do not consider it apposite to issue notice to other respondents.
3. The present appeal has been filed by New Delhi Municipal Council (NDMC) impugning orders dated 12.10.2023 and 07.11.2023 passed by the learned Single Judge in Contempt Case No. 899/2019. By impugned order dated 12.10.2023, learned Single Judge had directed that in case the survey is not started before 07.11.2023, respondent no.1 (petitioner in the said case) will be considered to vend from the vending site.
4. Subsequently, by an order dated 07.11.2023, the NDMC was granted three weeks' time to take necessary measures for verifying the claims of the concerned parties including spot/physical inspection. It was further directed



that if there was no positive report of compliance before the next date of hearing, the Court would be constricted “to consider and pass necessary directions for allotment of vending site to the petitioner”.

5. Respondent No.1 preferred the Contempt Petition in respect of alleged non-compliance of Judgment dated 18.09.2017 passed by a Coordinate Bench in W.P. (C.) No.11415/2016 captioned ***Mahesh Kumar Yadav v. New Delhi Municipal Council & Ors.***

6. The respondent had filed the said petition [W.P.(C) No. 11415/2016] praying that the appropriate directions be issued to the respondents to permit the petitioner to continue its vending activities from a particular site as described in the said petition.

7. The petitioner’s name did not feature in any of the three prior lists which were prepared earlier: the list of Tehbazari licence holders; list prepared by the Thareja Committee; and the list of 628 persons prepared in 2012.

8. This Court had, accordingly, rejected the petitioner No.1’s prayer for being allowed to vend at a particular site. However, there was no dispute that the Street Vendors (Protection of Livelihood and Regulation of Street Vending) Act 2014 (hereafter “the Act”), was required to be implemented. The Town Vending Committee (TVC) was required to conduct a survey and NDMC is required to prepare a vending plan in terms of Section 21 of the Act in consultation with the TVC.

9. In view of the above, this Court had directed that the TVC would consider the respondent no.1’s case expeditiously and, merely, because the respondent no.1 was not found vending at the site when the survey was conducted, would not be a ground to reject his case.



10. The survey is in the process, and making of a vending plan has not been completed. Undeniably, the said process is taking an inordinate long time and requires to be completed expeditiously.

11. There are several vendors who are claiming rights to vend from specified sites but they are not permitted to do so as no fixed site has been allocated to them. Mr. Peechara, contends that whilst the process requires to be completed, no street vendor can be allocated any site in preference over other similarly placed persons. Thus, it is essential that the sites be allocated only at an appropriate stage. He submits that the directions to allotment for vending sites to the respondent no.1 is thus, unjustified.

12. *Prima facie*, we find merit in the said contention, however, we note that the learned Single Judge has not passed any direction for allotment of vending site to respondent no.1 but, merely, observed that the said prayer would be considered. Thus, the appellants have not been precluded from advancing their contentions to persuade the Court not to pass such directions.

13. We consider it apposite to dispose of the present appeal with the aforesaid observation. All pending applications are also disposed of.

14. It is clarified that all rights and contentions of the parties are reserved.

VIBHU BAKHRU, J

TARA VITASTA GANJU, J

MARCH 05, 2024/SA

Click here to check corrigendum, if any