



2024:DHC:2601-DB



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

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*Date of Decision: 01.04.2024*

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W.P.(C) 5727/2022

RAM WATI

..... Petitioner

Through: Mr. N.K. Sahoo, Advocate.

versus

NEW-DELHI MUNICIPAL COUNCIL  
AND ANR.

..... Respondents

Through: Mr Sriharsha Peechara,  
Standing Counsel for NDMC  
with Ms Harshita Gupta, Mr  
Akshat Kulshreshtha and Mr  
Shubham Kumar Mishra,  
Advocates.

Mr Anupam Srivastava, ASC for  
GNCTD with Mr Deepak Jain,  
Advocate R-2.

SI Vijay, PS Connaught Place,  
N.D.

**CORAM:**

**HON'BLE MR. JUSTICE VIBHU BAKHRU**

**HON'BLE MS. JUSTICE TARA VITASTA GANJU**

**VIBHU BAKHRU, J.**

1. The petitioner is the widow of Late Sh. Sodan Singh son of Sh. Chiranji Lal. She has filed the present petition, *inter alia*, praying that directions be issued to the respondents for substituting the petitioner's name as a legal heir of her deceased husband in respect of an allotted site being site no.218-T-15. It is stated that the petitioner's deceased



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husband was originally squatting near Electric Pole no.12, Janpath Lane, Janpath, New Delhi. He was thereafter allotted a Tehbazari site described as site no.218-T-15 in terms of an allotment order no.99-A dated 17.08.1999. The site was located on a pavement adjacent to Military Office on Church Road, Central Secretariate, New Delhi.

2. The petitioner claims that Sh. Sodan Singh was shifted to a site near Kalawati Saran Hospital and thereafter, on 21.07.2023, was re-shifted to a site near Madras Hotel, Estate Emporium Building, New Delhi. It is claimed that he continued to carry on his trade from the said site. He expired on 19.08.2021. The petitioner, thus, claims that her name be substituted in place of her deceased husband in respect of the allotted site.

3. The respondents have filed a counter affidavit affirming that the allotment of the site in question in favour of Sh. Sodan Singh, was cancelled by an order dated 11.10.2006 as he had not paid the requisite dues. Copy of the said order is also annexed with the counter affidavit. It is further stated by the respondents that deceased Sodan Singh made certain payments after the cancellation order but they were not complete and the order cancelling the allotment was never revoked. It is stated that he had applied for restoration of the Tehbazari site and revocation of the cancellation order. In this regard, a letter dated 11.09.2014 was sent by the enforcement department of the NDMC calling upon Sh. Sodan Singh to deposit the entire up to date dues of Tehbazari's fees in one installment and his request for restoration of the site would be examined by the authority, thereafter. However, Sh. Sodan Singh did



not respond to the said communication. He neither appeared before the authority nor paid the up-to-date dues, which was necessary for consideration of his request for restoration of the Tehbazari site. It is contended on behalf of NDMC that after the enactment of the Street Vendors (Protection of Livelihood and Regulation of Street Vending) Act, 2014, the request for restoration of the site, which was cancelled more than 12 years prior to the enactment, cannot be considered.

4. Mr Sahoo, learned counsel appearing for the petitioner earnestly contends that Sh. Sodan Singh had espoused the cause of various hawkers. This caused inconvenience to the NDMC and therefore the allocation of the tehbazari site in his favour was cancelled to victimize him.

5. Mr Sahoo states that the Shri Sodan Singh had also approached the Lok Adalat on being removed. He referred to an order dated 29.04.2001 passed by the Lok Adalat, which indicates that a statement was made on behalf of the NDMC that Sh. Sodan Singh was allotted the site at Church Road and he could continue holding his Tehzabari at the said site. The petition filed by Sodan Singh was disposed of in the said terms. Additionally, he had also claimed that a sum of ₹20,000/- was recovered from him over and above the amount due and payable to the NDMC and he was entitled to recover the same. In view of the said submission, the Court had granted Sh. Sodan Singh (plaintiff), the liberty to make a representation to the NDMC and directed that the NDMC would consider the same within a period of fifteen days. Mr Sahoo submits that in view of the above order, an amount of ₹20,000/-



was recoverable from the NDMC and therefore, the Tehbazari license of Sodan Singh could not be cancelled in the year 2006 for want of payment of any amount.

6. This contention is stoutly disputed by Ms. Gupta, learned counsel appearing for the NDMC. She states that the order only enabled Sh. Sodan Singh to make a representation. The same was considered and rejected. She contends that therefore, Sh. Sodan Singh could not claim any rights in respect of Tehbazari license that stood cancelled on 11.10.2006.

#### **REASONS AND CONCLUSION**

7. As noticed at the outset, the petitioner's prayer is for substituting her name as a legal heir of the deceased Sodan Singh in respect of the Tehbazari Site (Site No.218-T-15). The petitioner also claims that appropriate directions be issued to the respondents for compliance of the order passed by the Lok Adalat on 29.04.2001.

8. In the given facts, none of the prayers as sought can be granted. There is no question for substituting the petitioner as a legal heir of deceased Sodan Singh in respect of the Tehbazari Site in question for the reason that the allotment of the said site in favour of Sodan Singh was cancelled almost 18 years ago. The question of substituting the petitioner's name would arise only if the order dated 11.10.2006 cancelling the allotment of the said site, is set aside. However, no proceedings were initiated by Sh. Sodan Singh for impugning the cancellation order.



9. The relief sought in the petition is also not to the effect that the cancellation order be set aside.

10. Insofar as the petitioner's prayer that directions be issued to the respondents to comply with the order dated 29.04.2001 passed by Lok Adalat is concerned, it is apparent from the tenor of the said order that two reliefs were granted to late Sh. Sodan Singh. First, that his Tehbazari site would continue at Church Road and this addressed his grievance regarding shifting to another site. Second, he was granted the liberty to make a representation for claiming refund of extra amount of ₹20,000/- paid by him with a further direction to the respondent to consider the same within a period of fifteen days.

11. It is important to note that the Lok Adalat had merely directed that the respondent would consider his representation. There was no direction for grant of refund of ₹20,000/- or a finding that any such amount was due and payable by the NDMC to Sh. Sodan Singh.

12. As noted above, according to the NDMC, the said representation was considered and rejected. It is stated that the representation was made by Late Sh. Sodan Singh on 01.05.2006, which was subsequently rejected on 21.06.2006 and the NDMC held that no excess payment had been received from Sh. Sodan Singh.

13. There is no material on record, which indicates that Sh. Sodan Singh had taken any steps for challenging the cancellation order. As noticed above, the order passed by Lok Adalat on 29.04.2001 merely called upon the NDMC to consider the petitioner's representation that



he was entitled to recover a sum of ₹20,000/- from the NDMC, which he claimed, was overpaid.

14. The petitioner has placed on record the representation dated 01.05.2006. The record indicates that a representation in regard to recovery of a sum of ₹20,000/- was made by late Sh. Sodan Singh on 01.05.2006. The record indicates that the representation, insofar as it related to the claim of overpayment of ₹20,000/-, was rejected by the order dated 21.06.2006.

15. There is no material on record to establish that in fact, an additional payment of ₹20,000/- was made. The petition does not indicate any calculation or the basis for this claim. It is important to note that any such claim would also be barred by limitation as it relates to a period, which is about 24 years ago.

16. There is nothing on record that shows any representation for refund of ₹20,000/- was made immediately after the order dated 29.04.2001 was passed by the Lok Adalat. Further communications thereafter would be a little assistance to the petitioner in this regard as Sh. Sodan Singh had not taken any legal steps for recovery of the amount of ₹20,000/- as claimed.

17. In view of the above, the petition is dismissed.

18. We, however, clarify that this would not preclude the petitioner from taking any steps to impugn the cancellation order. Needless to state that if any such action is instituted, all rights and contentions of



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the parties in this regard including that the action is barred by limitation, are reserved.

19. The petition is disposed of in the aforesaid terms.

**VIBHU BAKHRU, J**

**TARA VITASTA GANJU, J**

**APRIL 01, 2024**  
**RK**