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

+ **W.P.(C) 5765/2024 CM APPL. 23880/2024**

MATAPRASAD YADAV

..... Petitioner

Through: Mr. N.K Sahoo, Advocate

versus

NEW-DELHI MUNICIPAL COUNCIL AND ANR. Respondents

Through: Mr. Raghuinder Varma, ASC for R-1/NDMC

Mr. Divyam Nandrajog, Panel Counsel, GNCTD and Mr. Jatin Dua, Advocate for R-2

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

HON'BLE MS. JUSTICE TARA VITASTA GANJU

ORDER

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25.04.2024

1. The petitioner has filed the present petition *inter alia* praying as under:

“(1) To issue a writ of mandamus or appropriate writ or direction or order directing the respondents to allow for squatting at the original place of squatting in front of Shop No 122, Sarojini Nagar Market, New-Delhi laying vacant since order dated 01.11.2013 passed in writ petition No 6927 /2013 for any authorized persons like petitioner to earn the livelihood of the dependents;”

2. The petitioner claims that he was carrying on his vending activities at the given site (in front of Shop No. 122, Sarojini Nagar Market, New Delhi) since 1986. He claims that the respondent no. 1/MCD had issued a notice to



him on 22.11.2011 for vacating the said site. Aggrieved by the same, the petitioner preferred a writ petition being W.P.(C) 5854/2012. The said petition was disposed of on 09.10.2012. The said order reads as under:

“1. Present writ petition has been filed by petitioner under Article 226 of the Constitution of India seeking a direction to the respondent NDMC not to dispossess the petitioner from his present vending site at/near Shop No.122, Sarojini Nagar Market, New Delhi.

2. As prayed by counsel for the parties present writ petition and application for stay is taken up for final hearing and disposal.

3. As per the writ petition, petitioner, who is a street vendor, has been carrying on his business of selling readymade garments from a site at/near Shop No.122, Sarojini Nagar Market, New Delhi. Pursuant to the Scheme announced by NDMC for Urban Street Vendors the petitioner made an application to respondent no.1 in the year 2007 for allotment of a regular vending/squatting site under the said scheme. Petitioner was found eligible under the said scheme and his name was included in the list of draw of allottees.

4. On 17.9.2012 this matter was adjourned to enable counsel for the respondent NDMC to obtain instructions. Today, Ms.Ritu Bhardwaj, learned counsel for the respondent NDMC, submits that the name of the petitioner finds mentioned at Sl. No.37 in the list of 386 vendors and the petitioner has been allotted an alternate site at pavement of bus stop of Shivaji Stadium, New Delhi.

5. Learned counsel for the petitioner on instructions submits that petitioner has no objection to the above site allotted to the petitioner by the NDMC without prejudice to his rights and contentions and subject to final outcome of the meeting, which is scheduled to be held on 10.10.2012 between the petitioner and the respondent NDMC.

6. Accordingly, the petitioner shall appear before the Director (Enforcement), NDMC, on 12.10.2012, along with all the relevant documents, to enable the NDMC to process the case of the petitioner. NDMC shall hand over possession of the abovesaid site to the petitioner within two weeks from the date of receipt of all the documents from the petitioner.

7. In view of the stand taken by learned counsel for the respondent NDMC, counsel for the petitioner submits that no further orders are required to be passed in the present writ petition and the application



for stay. Accordingly, writ petition and application stand disposed of in above terms.

8. Let copy of this order be given DASTI to counsel for the parties under the signature of Court Master.”

3. The learned counsel appearing for the petitioner has accepted that an alternate site was allotted to the petitioner at pavement of bus stop of Shivaji Stadium, New Delhi as a temporary measure without prejudice to his rights and contentions. This Court had directed the petitioner to appear before the Director (Enforcement), NDMC, on 12.10.2012 along with all the relevant documents to enable the NDMC to process the petitioner's case. NDMC was also directed to hand over the possession of the aforesaid site to the petitioner within a period of two weeks from the receipt of all documents. However, thereafter the petitioner filed another application being CM APPL. 19744/2012 in the disposed of writ petition (W.P.(C) 5854/2012). The said application was disposed of by directing that till the fresh site is not allotted to the petitioner, the petitioner will not be dispossessed from the old site. It was also specified that the petitioner would hand over the possession of the old site simultaneously to the officials of the NDMC when the fresh site is allotted to the petitioner.

4. Thereafter, the petitioner was given a permission letter dated 09.02.2018 to carry on his vending activities at site no. 56 Laxmi Bai Nagar, Vegetable Market, New Delhi. However, the petitioner is finding it inconvenient to carry on vending activities at this site and claims that the said area is not developed. Accordingly, the petitioner had filed a representation dated 04.03.2024 with the Chairman of NDMC praying that he be relocated at the original site (in front of Shop No. 122, Sarojini Nagar



Market, New Delhi or at D-Avenue, Sarojini Nagar Market or any place in the market area where there is a vacant spot).

5. The petitioner has approached this Court as the said representation has not been considered.

6. It is the NDMC's case that the Sarojini Market is over-crowded and there is no scope of adjusting street vendors in the said market. The respondents have also highlighted that there is a security issue on account of the market being over-crowded. The capacity of the market is stated to be insufficient.

7. There are number of cases filed in the Court by street vendors seeking an order restraining NDMC from interfering or disturbing street vendors in carrying on their vending activities at Sarojini Nagar Market. However, this Court has not acceded to the said prayers in view of the NDMC's stand that Sarojini Nagar market does not have the capacity to hold the number of street vendors who now seek to vend at the said site located at the market or in the vicinity thereof. This Court is also informed that a survey is required to be conducted shortly and in terms of Section 21 of the Street Vendors (Protection of Livelihood and Regulation of Street Vending) Act, 2014, NDMC is required to prepare a vending plan in consultation with the Town Vending Committee. The question of adjusting street vendors at various locations will be considered at the said stage.

8. In view of the above, we consider it apposite to dispose of the present petition with the observation that the petitioner is entitled to participate in the survey. The petitioner would also be at liberty to establish that he has been carrying on vending activities from a site at Sarojini Nagar Market since 1986. Needless to state that the concerned Town Vending Committee



shall consider the same at an appropriate stage.

9. The petition is disposed of in the aforesaid terms. Pending applications stand closed.

VIBHU BAKHRU, J

TARA VITASTA GANJU, J

APRIL 25, 2024

g.joshi

Click here to check corrigendum, if any