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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **W.P.(C) 10651/2022**
MAHESH RAI AND ORS.

..... Petitioners

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

NEW-DELHI MUNICIPAL COUNCIL AND ORS.

..... Respondents

Through: Ms.Devika Mohan, ASC for NDMC.
Mr.Shashi Pratap and Mr.Sparsh
Agarwal, Advocates for R2/SHO.
Mr.Abhishek Saket, SPCG,
Mr.Nishant GP and Ms.Sanna Harta,
Advocate for UOI.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

HON'BLE MS. JUSTICE TARA VITASTA GANJU

ORDER

01.05.2024

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1. The petitioners (three in number) have filed the present petition, *inter alia*, praying that directions be issued to the respondents to not disturb them from carrying on their vending activities near Gate No.1, Sarojini Nagar Metro Station, Sarojini Nagar, New Delhi – 110023 (hereafter *the site in question*) till the survey is conducted under the Street Vendors (Protection of Livelihood and Regulation of Street Vending) Act 2014 (hereafter *the Act*).
2. The petitioners claim that they have been vending at the site in question since several years and therefore, in terms of Section 3(3) of the Act, they cannot be removed from the site in question.
3. In support of their contention that they have been carrying on vending activities, the petitioners have produced copies of challan / Removal charges issued by the New Delhi Municipal Council (NDMC). Apart from three



challans dated 16.07.2010, 07.11.2010, and 22.03.2011 which mention the receipt of the removal charges from unauthorised vendors, none of the other challans are prior to the year 2014.

4. The NDMC has filed the counter affidavit disputing that the petitioners have been carrying on vending activities at the site in question. It is stated in the counter affidavit that the name of petitioners do not find mention in any of the lists of unauthorised squatters prepared by the NDMC in the past.

5. Admittedly, lists of unauthorized squatters were prepared by the NDMC in the past. First, a list of 176 old *Tehbazari* holders was prepared. Thereafter, the Thareja Committee prepared the list of 741 verified squatters. Another list of 628 vendors was also prepared in the year 2012 for the purposes of allocation of available spaces by lottery. The name of the petitioners do not find mention in these lists. It is also pointed out that none of the petitioners had applied for the allotment of *Tehbazari* site under the Urban Street Vendor Scheme, 2007, which was approved by the Supreme Court.

6. In view of above, the NDMC claims that the petitioners have not been regularly carrying on vending activities. And, the protection under Section 3(3) of the Act does not extend to the street vendors who are attempting to encroach upon the site after the Act came into force. It is also pointed out that the challans filed by the petitioner nos.2 and 3 for the payment made to the respondent are only for the period from 2019-2021.

7. This Court is unable to readily accept the contention of the petitioners that they have been carrying on street vending activities at the site in question. More importantly, it is pointed out that the capacity of the



Sarojini Nagar Market is not sufficient to hold the number of street vendors that are seeking to carry on vending activities at the said market or in the vicinity, thereof. Additionally, it is pointed out that there is also a security issue and only a limited number of street vendors can be permitted to vend in the said market to ensure the safety of the persons visiting the said market.

8. Since there is serious dispute whether the petitioners were vending at the given site, we are unable to accede to the prayers made in the present petition. However, we clarify that this order would not preclude the petitioners from participating in the survey. They are also at liberty to produce all documents and materials relied upon by them to establish that they were carrying on vending activities before the Town Vending Committee (TVC). Needless to state, the TVC will examine the same uninfluenced by any of the observations made in the present order.

9. The petition stands disposed of in above terms.

VIBHU BAKHRU, J

TARA VITASTA GANJU, J

MAY 01, 2024

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Click here to check corrigendum, if any