



2024:DHC:5397



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

% **Date of order: 15th July, 2024**

+ **W.P.(C) 12779/2023 & CM APPL. 60256/2023**

SRI AWADH RAM LEELA COMMITTEE VASHNU MATA

MANDIR AND ANR.

.....Petitioners

Through: Mr.Rizwan, Advocate

versus

DELHI MUNICIPAL CORPORATION OF DELHI AND ORS

.....Respondents

**Through: Mr.Mukesh Gupta, Standing counsel
with Mr.Raghav Gupta, Advocate for
MCD**

**Ms.Hetu Arora Sethi, ASC for
GNCTD with Mr.Arjun Basra,
Advocate for R-2 & 3/GNCTD**

**Ms.Manika Tripathy, Standing
counsel for DDA with Mr.Ashutosh
Kaushik, Advocate for DDA**

CORAM:

HON'BLE MR. JUSTICE CHANDRA DHARI SINGH

ORDER

CHANDRA DHARI SINGH, J (Oral)

1. The instant petition under Article 226 of the Constitution of India has been filed on behalf of petitioners seeking the following reliefs:-

***“1. i.TO ENHANCE THE AREA OF RAM LEELA GROUND
TO 7 ACRES OF LAND.***

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2. *ii TO CONNECT THE SAME WITH THE MAIN ROAD OF THE COLONY NAMELY MUKUNDADPUR WITH THE ROAD OF THE COLONY/VILLAGE FROM THE DDA BOUNDARY WALL AS SHOWN IN THE MASTER PLAN HAVING THE AREA OF 30 METER.*

3. *iii IN ALTERNATIVE THE ALLOTMENT OF SITE OF SEVEN ACRES NEAR MAHARANA PRATAP STATUTE, NEAR POLICE BOOTH, MUKUNDPUR, DELHI AS THIS SITE IS AVAILABLE FOR THE REQUISITE PURPOSE.”*

2. Learned *Amicus Curiae*, Mr. Rizwan appearing on behalf of the petitioner submitted that the petitioner No.1 is a society registered under the Societies Registration Act, 1860 with the Registrar of Societies, Delhi Administration, Delhi. The petitioner No.1 and its sister concern society namely Adarsh Manav Kalyan Sansthan have been organizing, holding and staging *Ram Leela* since the year 1988 at Park No. 200059, Green Wood Land, Mukundpur Delhi (hereinafter “Mukundpur Park”).

3. It is submitted that the *Ram Leela* has been organized by the petitioners since the year 1995 with the required permissions from the Delhi Municipal Corporation/respondent No.1 (hereinafter “MCD”).

4. It is further submitted that the process mandates them to seek permission and submit a refundable amount of security deposit with the MCD, and also obtain permission from the Union Territory of Delhi Loudspeaker (Licensing and Controlling) Regulations, 1988, and the petitioners have been successfully obtaining the said permission since the year 1995.

5. It is submitted that in the year 2004, on the pretext of a Master Plan



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issued for the Mukundpur Colony with the proposed construction of a Golf Course in the Mukundpur Park, the respondents denied the permission to the petitioners to organize/hold the event of *Ram Leela* stating that no space is available for the said event.

6. It is submitted that pursuant to the aforesaid, the petitioners filed a writ petition bearing W.P.(C) No. 16142/2004 before this Court, thereby, praying for the grant of permission to organise *Ram Leela* on the ground that no construction work with respect to the aforementioned Master Plan was initiated and that sufficient place existed in the Mukundpur Park. It is further submitted that vide order dated 12th October, 2004, the respondents provided an alternative smaller land at the back side of the Mukundpur Colony to the petitioners for the purpose of organizing *Ram Leela*.

7. It is submitted that the petitioners raised objection with respect to the alternative area provided on the ground that the same is less accessible to the public and would attract safety concerns, however, on the assurance of the respondents that a 30 meters wide road shall be constructed as per the Master Plan, to ensure proper accessibility to the alternatively provided *Ram Leela* ground and for safety of public, the same was accepted by the petitioners and consequently, the aforesaid writ petition was dismissed as withdrawn vide order dated 25th October, 2004.

8. It is submitted that the petitioners have been organizing *Ram Leela* in the alternatively allotted land since the year 2004 in compliance with all the rules and after duly obtaining approval from the MCD.

9. It is submitted that the Mukundpur Park was closed for the



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construction of Golf Course, however, the construction of the 30 meters wide road alongside the wall of the Mukundpur Park as per the Master Plan has neither been constructed nor initiated, and rather, the pathway alongside the park has been encroached by some residents.

10. It is submitted that the only way to the alternatively allotted area for conducting the *Ram Leela* is a 5 meters wide road which is at some places 6 meters and at other places even narrower with residential buildings on both sides. Furthermore, the presently allotted *Ram Leela* ground is covered by a green belt at the back and holds limited access from roads running within the Mukundpur Colony. However, on the other side, the entry to the Golf Course constructed on the Mukundpur Park is situated on the main road on the G.T Kamal road.

11. It is submitted that the population of Mukundpur area has grown considerably since the year 2004 and the issues of accessibility as well as safety of the public has now surfaced especially during the event of *Ram Leela*.

12. It is also submitted that since the entry for the Golf Course which stretches approximately about 100 acres is situated on the main GT Karnal Road, the area previously allotted to the petitioners is the only viable and safe option to ensure easy entry as well as exit access to the public which appears in large numbers to witness the event.

13. It is further submitted that the previously allotted area was situated at the beginning of the Mukundpur Colony adjoining the main road itself, however, the presently allotted area is at the extreme back of the Colony. If



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the petitioners continue with the same venue, it shall attract a state of utter pandemonium, disrupting traffic with parking and safety issues including fire, stampede and other hazards in the coming years.

14. It is submitted that the petitioners hold the right to organise *Ram Leela* peacefully as a fundamental right enshrined under Articles 25 & 26 of the Constitution of India, however, the surroundings of the area restrain the petitioners to fully exercise the same.

15. It is submitted that the petitioners are aggrieved with the fact that the area allotted to them is not only smaller, but is also now extremely inaccessible and congested due to its location, exorbitant rise in the population and failure of the respondents to either allot the area of the park initially used for *Ram Leela* or construct a 30 meters wide road alongside the Mukundpur Park.

16. Therefore, in view of the foregoing submissions, it is submitted that the instant petition may be allowed and the reliefs be granted as prayed for.

17. *Per Contra*, the learned counsel appearing on behalf of the respondent no. 4/Delhi Development Authority vehemently opposed the instant petition submitting to the effect that the same is liable to be dismissed, being devoid of any merit.

18. It is submitted that since the year 2003, there has been a refusal to grant permissions for organizing *Ram Leela* and to allot the land on a temporary basis for holding, staging and organizing *Ram Leela* on the park in question.

19. It is further submitted that the said land is projected to be developed



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as a Golf Course and as per the site plan, the temporary gate has also been closed, leaving no site available in the whole area for the purpose of organizing, staging and holding *Ram Leela* in the Mukundpur Colony.

20. It is submitted that the land in question pertains to the North Division of MCD and the allotment of site for *Ram Leela* is also done by MCD, and only the vacant land adjoining the disputed site is under the jurisdiction of the Delhi Development Authority (hereinafter “DDA”).

21. It is submitted that the land does not belong to the respondent no. 4/DDA and the petitioners have no valid claim made out against the answering respondent. The land in question is in the jurisdiction of MCD and DD (horticulture), Civil Lines Zone, MCD.

22. It is further submitted that the MCD, vide its letter dated 15th September, 2023, allotted the land in the name of the petitioner w.e.f. 12th October, 2023 to 26th October, 2023 for *Ram Leela* at Ramleela Graminpark, Near C&D Block Part – 1, Mukundpur, Delhi.

23. It is submitted that there exists an online portal – “*online-dda.org.in/booking*” for booking of community halls/open spaces and parks, as per the availability and in case such open spaces/halls are not available through online booking, the same could be booked, as per the availability, by writing a request to SE (P&HQ)/North/DDA or Director (Horticulture)/DDA and the Vice Chairman, DDA is competent to approve such requests.

24. It is submitted that neither the Golf Course is being maintained by MCD, nor any development is being carried out by DDA, moreover, the area towards the North to the said Golf Course is a forest area. It is further



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submitted that the adjoining area of this plot comprises of forest area Golf Course and Abadi. There is also a land parcel towards north to this Ramleela Graminpark, Near C&D Block Part – 1, Mukundpur, Delhi, which is not under the jurisdiction of DDA.

25. Therefore, in view of the foregoing submissions, it is submitted that the instant petition may be dismissed.

26. Heard the learned counsel appearing on behalf of the parties and perused the material in record.

27. During the course of arguments, learned Standing Counsel appearing on behalf of respondent no.4/DDA referred to the short counter affidavit filed on behalf of respondent No.4/DDA submitting to the effect that every year, 2 ½ acres of land allotted to the MCD is given to the petitioner committee for organizing, staging and holding the event of performing *Ram Leela* on licence basis. It has been further submitted that rest of the land does not belong to the DDA as well as the MCD. Also, while drawing attention to paragraph no. 12 of the short counter affidavit, it has been submitted that the rest of the land is forest land.

28. Learned counsel appearing on behalf of the petitioner has not disputed the aforementioned statement given by the learned Standing Counsel appearing on behalf of the DDA.

29. By way of the instant writ petition, the petitioners are seeking issuance of writ in the nature of mandamus with a direction to the respondents to enhance the area of *Ram Leela* ground to 7 Acres of Land and to connect the land with the main road of the Mukundpur Colony and



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the road of the village from the DDA boundary as shown in the master plan or in the alternative, the petitioners have sought the allotment of site of seven acres near Maharana Pratap statue, near Police Booth Mukundpur, Delhi.

30. It has already been ascertained by the Hon'ble Supreme Court time and again that a writ of mandamus is used for enforcing the performance of a public duty. It is a settled law that in order to issue such a writ, the Courts have to be hyper-vigilant since the same falls under the extraordinary jurisdiction which is only to be invoked upon special occasions and in exceptional circumstance.

31. Perusal of the contents of the writ petition shows that the petitioners have approached this Court being aggrieved by the fact that the area currently allotted to them for organising, holding and staging *Ram Leela* is smaller and inconvenient due to the failure of the respondents to either allot them the area of the park initially used for *Ram Leela* or construct a 30 meters wide road alongside the Mukundpur Park.

32. With regard to the above, this Court is of the considered view that there is sufficient authority as per which in order to grant relief as prayed by the petitioners in the present petition, there has to be a legal right in their favour which has been violated by a public authority by not fulfilling the obligation which it ought to have done. In other words, a writ of mandamus can be granted only in a case where there is a statutory duty imposed upon the authority concerned and there is a failure on the part of that authority to discharge the statutory obligation.



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33. In the present case, the petitioners have not disputed the fact that a portion of 2 ½ acres of land which is allotted to the MCD is given to the petitioner No. 1 committee in order to organize the event on licence basis every year and that the rest of the adjoining land does not belong either to the DDA or the MCD. Furthermore, it has also not been disputed by the petitioners that remaining portion of the land is forest land.

34. It is also pertinent to mention herein that as per the submission of the learned counsel appearing on behalf of the respondent No. 4/DDA, there already exists an online portal for booking of community halls/open spaces and parks, as per the availability and in case such open spaces/halls are not available through online booking, the same could be booked, as per the availability, by writing a request to SE (P&HQ)/North/DDA or Director (Horticulture), thus, a mechanism is already established which the petitioners can follow.

35. Therefore, in view of the above facts and circumstances as well as bearing in mind the contents of the short counter affidavit and concession made on behalf of the petitioners, no case is made out for issuing a writ in the nature of mandamus. It is held that the petitioners have failed to prove that the respondents have failed to perform their public duty in order to invite interference of this Court under its extraordinary writ jurisdiction and hence, the instant petition is liable to be dismissed being devoid of any merits.

36. Accordingly, the instant petition stands dismissed along with pending applications, if any.



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37. The order be uploaded on the website forthwith.

CHANDRA DHARI SINGH, J

JULY 15, 2024

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Click here to check corrigendum, if any

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