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

+ **W.P.(C) 11269/2024 & CM APPL. 46631/2024**

SMT TARA DEVI

.....Petitioner

Through: Mr.Pushkar Sood, Ms.Shikha Sood,
Ms.Monika Saini and Mr.Anshuman
Sood, Advs.

versus

NEW DELHI MUNICIPAL COUNCIL & ORS.Respondents

Through: Mr.Vaibhav Agnihotri, ASC with
Mr.Satvik Rai, Adv.

CORAM:

HON'BLE MR. JUSTICE PURUSHAINDR KUMAR KAURAV

ORDER

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14.08.2024

1. Looking at the averments made by the petitioner, it appears that certain private individuals, who allegedly do not possess any authority or license from the respondent-NDMC, are operating as Dhobis at Bapa Nagar Dhobi Ghat.
2. Learned counsel for the petitioner has made the following averments in paragraph no.6 of the writ petition:-

"That the petitioner, who is the President of Bapa Nagar Dhobi Ghat, observed that Respondent No.2/Mr. Mahesh Kumar S/o Late Sh. Munni Lal, Mrs. Dimple W/o Mr. Mahesh Kumar and Mr. Sahil S/o Mr. Mahesh Kumar are unauthorisedly operating at Bapa Nagar Dhobi Ghat without license. The petitioner also observed that they are creating nuisance at the said Dhobi Ghat. When they were confronted by the petitioner as to how they are operating from the said Dhobi Ghat without a valid license from the NDMC, they threatened the petitioner with dire consequences."



3. Learned counsel appearing for the petitioner submits that, given the license granted by the respondent-NDMC, the NDMC is obligated to ensure that private individuals without proper authorization are not allowed to operate as Dhobis at the aforesaid ghat. He, therefore, contends that the present writ petition has been filed seeking directions against the respondent-NDMC to ensure that only valid licensees are permitted to work as Dhobis at the ghat.

4. Considering the relief sought and the submissions advanced, the Court is of the opinion that the petitioner may address his grievance before the Civil Court.

5. The issue as to whether the respondents were allegedly working without a license or whether the private respondents are functioning as Dhobis are disputed facts. These issues may not be appropriately examined under the jurisdiction of Article 226 of the Constitution of India.

6. The Supreme Court in the case of *Joshi Technologies International Inc. v. Union of India*⁵, had an occasion to deal with a case involving disputed question of facts. The relevant paragraphs of the said decision are reproduced hereunder as:-

“69. The position thus summarised in the aforesaid principles has to be understood in the context of discussion that preceded which we have pointed out above. As per this, no doubt, there is no absolute bar to the maintainability of the writ petition even in contractual matters or where there are disputed questions of fact or even when monetary claim is raised. At the same time, discretion lies with the High Court which under certain circumstances, it can refuse to exercise. It also follows that under the following circumstances, “normally”, the Court would not exercise such a discretion:

69.1. The Court may not examine the issue unless the action has some public law character attached to it.

⁵ (2015) 7 SCC 72



69.2. Whenever a particular mode of settlement of dispute is provided in the contract, the High Court would refuse to exercise its discretion under Article 226 of the Constitution and relegate the party to the said mode of settlement, particularly when settlement of disputes is to be resorted to through the means of arbitration.

69.3. If there are very serious disputed questions of fact which are of complex nature and require oral evidence for their determination.

69.4. Money claims per se particularly arising out of contractual obligations are normally not to be entertained except in exceptional circumstances.”

7. In view of the aforesaid, the Court is not inclined to entertain the instant writ petition in view of the complex set of disputed facts and thus, the same is accordingly dismissed along with pending application.

PURUSHAINdra KUMAR KAURAV, J

AUGUST 14, 2024/MJ