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IN THE HIGH COURT OF DELHI AT NEW DELHI

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Date of Decision: 09.09.2024

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W.P.(C) 12627/2024 & CM APPL. 52444/2024**SANGEETA BAKSHI & ORS.**

.....Petitioners

Through: Mr M M Kashyap, Advocate.

versus

MUNICIPAL CORPORATION OF DELHI

.....Respondent

Through: Mr Akhil Mittal, SC and Ms Nauita
Gupta Ms Afnan and Mr Sidhant,
Advocates.**CORAM:****HON'BLE MR. JUSTICE VIBHU BAKHRU****HON'BLE MR. JUSTICE SACHIN DATTA****VIBHU BAKHRU, J.**

1. The petitioners have filed the present petition, *inter alia*, praying as under: -

“a. To allot the petitioner No. 1 & 2 alternate site to carry on trade at Feroz Gandhi Road adjoining Juice shop (Tasty Point) near Delhi Traffic Police TSR pre-paid Booth, Lajpat Nagar III with immediate effect

b. To allot the petitioner No. 3 & 4 alternate site to carry on trade at opposite Police station Lajpat Nagar III adjacent to Park on Footpath, Lajpat Nagar with immediate effect.

c. To give direction to the MCD after allotting sites to the petitioners at the sites mentioned above, the petitioners may kindly be allowed to cover their 6'X4' Tehbazari site by standard design as allowed by MCD at ITO and at Kalkaji and at other Places.”



2. The petitioners state that they were carrying on vending activities at Pushpa Market, Central Market, Lajpat Nagar, New Delhi prior to the year 1996 and were removed from the said market on 17.12.1996. Thereafter, each of the petitioners was allotted an alternative *tehbazari* site measuring 6'X4' at Defence Colony, New Delhi in terms of the letters dated 12.12.2001 issued to them by the Assistant Commissioner Central Zone, Municipal Corporation of Delhi (MCD).

3. The petitioners claim that they had also filed an application before the Supreme Court (IA No.394 in IA 356 in W.P.(C) No.1699/1987 captioned *Sudhir Madan & Ors v. Municipal Corporation of Delhi & Ors.*). And, their application was disposed of by the Supreme Court with direction that they be permitted to assist the MCD to locate possible available sites in the areas of their choice. The MCD was also directed to take appropriate steps in accordance with law to allot alternative sites, if possible, notwithstanding the pendency of their application. The relevant extract of the order dated 25.08.2005 of the Supreme Court is set out below: -

“The petitioners in IA 394 namely, Ram Swaroop and Ors. Have objected on the ground that they held licenses to hold *tehbazari* in Lajpat Nagar area but they have been shifted on account of bomb blast. They have claimed that they should be allotted alternative sites for their business. We will consider what relief should be granted to petitioners Ram Swaroop and ors. But we find no reason why Nand Kishore and Ashok Kumar the applicants should not be given possessions of the lands allotted to them. We, therefore, permit the Municipal Corporation to issue necessary orders to hand over possession of lands allotted to them. So far as the case of the petitioners in IA 394 is



concerned, we will later consider directing the Municipal Corporation to give alternative sites to them if any alternative site is available.

However, the applicants in IA 394 are permitted to assist the Municipal authorities to locate possible available sites in the areas of their choice, and if possible, the Municipal Corporation may take appropriate steps in accordance with law to all to them alternative sites notwithstanding the pendency of their application.”

4. The learned counsel appearing for the petitioners state that notwithstanding the petitioners were allotted alternative sites in terms of the letters dated 12.12.2001, the petitioners are entitled to allocation of alternative sites as the site allotted to them is near a garbage collection centre and it is not feasible for them to carry any vending activities from the said site.

5. He contends that the Supreme Court had directed the MCD to take appropriate steps to allot them alternative sites. Thereafter, the petitioners had identified the alternative sites which are located at Feroz Gandhi Road adjoining Juice shop (Tasty Point) near Delhi Traffic Police TSR Pre-paid Booth, Lajpat Nagar-III as well as at opposite Police Station Lajpat Nagar-III adjacent to Park on Footpath, Lajpat Nagar, New Delhi. He submits that in terms of the order dated 25.08.2005 passed by the Supreme Court in IA No.394 in IA 356 in W.P.(C) No.1699/1987 captioned *Sudhir Madan & Ors v. MCD & Ors.*, the petitioners ought to be allotted the said sites.

6. The learned counsel appearing on behalf of the respondent disputes that the petitioners were the applicant in IA No.394 in IA 356 in W.P.(C) No.1699/1987 captioned *Sudhir Madan & Ors v. MCD & Ors.* before the Supreme Court, as claimed by the petitioner. He submits that the said



interim application was moved by one Ram Swaroop and his group. He also points out that the aforementioned order dated 25.08.2005 passed by the Supreme Court in IA No.394 in IA 356 in W.P.(C) No.1699/1987 captioned *Sudhir Madan & Ors v. MCD & Ors.*, does not reflect that the applicants in that case, had been allotted alternative sites and were seeking a change of those sites.

7. Plain reading of the order 25.08.2005 passed by the Supreme Court – which is relied upon the petitioners – indicates that said applicants *tehbazari* Holder were removed from Lajpat Nagar Market on account of a bomb blast that had happened in the area. However, they were not allotted the alternative sites and the Supreme Court had issued directions – which are referred to by the petitioners and are reproduced hereinabove – in that context . He also submits that it is clear that the MCD has been directed to allot alternate sites ‘if possible’. In the present case, the MCD had already allotted alternate sites to the petitioners. However, the petitioners had not taken any steps for payment of their *tehbazari* license fees and taking possession of the sites.

8. In view of above, we are of the view that no relief can be granted to the petitioners at this stage as the alternate sites at Defence Colony were allotted to them more than twenty-three years ago. The petitioners did not take any steps to take possession of the said sites as according to the petitioners, they did not find it feasible to vend at the alternate sites allocated to them by the MCD.

9. It is apparent from the facts as noted above, that the petitioners have approached this Court after 24 years to agitate their claims for *tehbazari* license.



10. The petition is hopelessly delayed and is, thus, liable to be dismissed.
11. In the meanwhile, the Street Vendors (Protection of Livelihood and Regulation of Street Vending) Act, 2014 has come into force. Any allocation of *tehbazari* licences is required to be made in accordance with the vending plan to be prepared under Section 21 of the said Act.
12. In the given circumstances, the petition is dismissed. However, we clarify that this order will not preclude the petitioners from participating in the survey to be conducted in accordance with the Street Vendors (Protection of Livelihood and Regulation of Street Vending) Act, 2014 and for seeking fresh licences in accordance with law.
13. Pending application also stands disposed of.

VIBHU BAKHRU, J

SACHIN DATTA, J

SEPTEMBER 09, 2024

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Click here to check corrigendum, if any