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

+ W.P.(C) 13400/2024 & CM APPL. 56026/2024

RWA GOVINDPURI VIKAS MANCH

.....Petitioner

Through: Mr. Kirti Uppal, Sr. Advocate with
Mr. Rohan Sharma and Ms. Riya
Gulati, Advocates.

versus

MUNICIPAL CORPORATION
OF DELHI & ORS.

.....Respondents

Through: Ms. Manu Chaturvedi, SC, Mr.
Anuj Chaturvedi and Ms. Harshita
Maheshwari, Advocates for MCD.
Mr. Arun Batta, Ms. Indira Marla
and Mr. Wahid, Advocates for R-2.
Ms. Khushboo Kohli, Advocate for
Shree Yuva Ram Leela Committee.
Mr. Bhaskar Seal, Asstt.
Commissioner, MCD and Mr.
Manuvendra Pratap Shahi, Addl.
Director, Horticulture, MCD.

CORAM:

HON'BLE MR. JUSTICE PRATEEK JALAN

ORDER

01.10.2024

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1. The petitioner, which is Resident Welfare Association of *Govind Puri, K-Block, Gali No.1, Kalkaji* has filed this writ petition directed against a communication of the Municipal Corporation of Delhi ["MCD"] dated 13.09.2024, by which permission has been granted to respondent No.3 to book the "*MCD Park opposite Govindpuri K-Block, Gali No.1,*



Kalkaji from 03.10.2024 to 12.10.2024”.

2. The conditions upon which the permission has been granted, as evident from the said communications, are as follows :

“xxxx

xxxx

xxxx

Kindly note that this permission letter is provisional and contingent upon the submission of the following No Objection Certificates (NOCs) from the relevant departments:

- 1. NOC from Fire Department.*
- 2. NOC from Traffic Police Department.*
- 3. NOC from Delhi Police.*
- 4. NOC from E.E.(Auto), CNZ if Swings/machineries etc. are required.*
- 5. NOC from Public Health Department, Central Zone, MCD, if food stalls are required.*
- 6. Undertaking/ affidavit as enclosed.*
- 7. Any additional NOCs as specified by local regulations.*

*It is requested to provide these NOCs before booking period. Upon receipt and verification of the required documents, a **FINAL PERMISSION LETIER** will be issued to you.*

Please be aware that if the required NOCs are not submitted in a timely manner, the provisional permission will automatically be deemed cancelled, and the booking will be considered null and void.”

3. Mr. Kirti Uppal, learned Senior Counsel for the petitioner, states that the aforesaid permission has been granted for holding of Ram Leela, in the teeth of submissions made by MCD itself to this Court, when similar permission was granted to another Ram Leela committee. He draws my attention to an order dated 22.09.2023 in W.P. (C) 12568/2023 titled *L.J. Contractors Pvt. Ltd. vs. Municipal Corporation of Delhi and Anr.*

4. It is not disputed that the said writ petition deals with the same site. The petitioner therein [respondent No.2 in this writ petition] was the



parking contractor, who was operating a surface parking site, in the said premises, pursuant to a tender dated 29.12.2022. The order reads as follows:

“1. Issue notice. Mr. Manu Chaturvedi, learned Standing Counsel accepts notice on behalf of respondent Nos. 1 and 2 – Municipal Corporation of Delhi [“MCD”]. Mr. Rajinder Singh, learned counsel appears on behalf of Shree Yuva Ram Leela Committee. With the consent of learned counsel for the parties, Shree Yuva Ram Leela Committee, [K- 101, Kalkaji, New Delhi - 110019] is impleaded as respondent No.3 in this petition.

2. The petitioner has been awarded a contract by MCD to operate a surface parking site in Govind Puri, K-Block, Kalkaji, Delhi. The petitioner was the successful tenderer pursuant to a notice inviting tender dated 29.12.2022, and has taken possession of the site in question.

3. The grievance with which the petitioner has approached the Court is that MCD has addressed a communication dated 18.08.2023 to it, stating that respondent No.3 is organising Ram Leela at the same site from 10.10.2023 to 29.10.2023 (20 days). The petitioner has, therefore, been directed to vacate the parking site during this period. The petitioner has sought setting aside of the said communication, and issuance of consequential directions to MCD. In the writ petition, an alternative prayer has been made that MCD should permanently take over 50% of the parking site for conduct of social/religious functions upon proportionate reduction of the license fee. A further alternative has been proposed that the site may be taken over by MCD in totality upon refund of the advance monthly license fee, security deposit and earnest money deposit paid by the petitioner.

4. Mr. Arun Batta, learned counsel for the petitioner, submits that the petitioner has obtained a license upon payment of a substantial license fee of Rs.5,71,000/- per month, in addition to payment of advance monthly license fee of Rs.18,20,500/-, security deposit of Rs.17, 13,000/- and earnest money deposit of Rs.4,63,500/- which were made in terms of the contract, and directions of this nature make the contract completely unworkable. He further contends that petitioner has a number of customers who have taken monthly passes for parking of their vehicles at the site in question. It is the petitioner's contention that the parking site has been given to respondent No.3, which in turn will be engaged in commercial activity, to the extent that it will set up stalls on receipt of payment



from third parties.

5. Mr. Chaturvedi, however, submits that Clause 18 of Section H of the tender documents permits MCD to requisition the site for a public purpose and grant appropriate remission to the petitioner in payment of license fee.

6. While the parties join issue as to the interpretation of Clause 18, it is not necessary to enter into this controversy in the present case as the parties have arrived at a mutually acceptable resolution of the matter. As far as the booking for 10.10.2023 to 29.10.2023 is concerned, learned counsel for the pmlies agree that 50% of the parking site in question will be vacated for respondent No.3 and the other 50% of the site will be operated by the petitioner. MCD will grant remission of 50% of the monthly license fee to the petitioner for these 20 days. Appropriate adjustments, if required, in the license fee payable by respondent No.3 to MCD, will be worked out between them mutually.

7. Mr. Chaturvedi submits upon instructions that MCD has taken a policy decision not to use the site in question for social/religious functions and will not invoke Clause 18 in this regard in future. However, it has already accepted two other bookings from different parties for the site in question - for 24.09.2023 and 07.12.2023/08.12.2023. The concerned pmlies are not before the Court. However, MCD states that it will coordinate with the petitioner and the aforesaid persons to ensure that a mutually acceptable arrangement is worked out where the petitioner is not deprived of more than 50% of the parking site without its consent.

8. The writ petition, alongwith pending applications, is disposed of in the aforesaid terms.”

[Emphasis supplied]

5. The contention today is that, despite the statement made to the Court, recorded in paragraph 7 of the aforesaid order, the site has been given to respondent No.3.

6. Mr. Manu Chaturvedi, learned Standing Counsel for the MCD, states that he has been instructed that the permission is being withdrawn.

7. Mr. Chaturvedi has been instructed that the permission to respondent No.3 was granted with consent of respondent No.2. However,



learned counsel for respondent no.2, states that the respondent no.2 has also not consented to diversion of the site. The alleged consent of respondent No. 2 is, in my view, not dispositive of the matter, having regard to the specific statement made to the Court that site would not be used for social/religious functions in future.

8. Learned counsel for respondent No.3 vehemently opposes the submissions. She submits that the respondent No.3 has already made arrangements for holding Ram Leela, and has paid the amount demanded by the MCD for the booking. I do appreciate the difficulty, as far as the respondent No.3 is concerned. However, the problem is really of the MCD's making, and one that will have to be resolved between the MCD and respondent No.3. In the order dated 22.09.2023, the Court permitted an arrangement, which would enable the proposed function to go on, subject to conditions mentioned therein. However, an assurance was given that, other than three further days for which bookings had already been taken, such a situation would not reoccur. The Court cannot be faced with a fait accompli, that the booking has been made, contrary to the assurance made to the Court, and the interests of respondent No.3 will now be prejudiced. A mutually acceptable arrangement was worked out on one occasion, but when an assurance is given to the Court, it is expected that a statutory authority will act in terms of the assurance.

9. In view of the fact that MCD itself proposes to withdraw the impugned permission, the writ petition stands disposed of.

10. This is without prejudice to rights and contentions of respondent No.3 as available in law. In the event, MCD is able to offer an alternative site to respondent No.3, where holding of the Ram Leela is permissible, it



may do so.

11. Learned counsel for the MCD, is directed to forward a copy of this order directly to the Commissioner, MCD.

12. A copy of the order be given *dasti* under the signature of the Court Master.

PRATEEK JALAN, J

OCTOBER 1, 2024
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