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IN THE HIGH COURT OF DELHI AT NEW DELHI

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Date of Decision : 31.01.2025

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W.P.(C) 1870/2010 and CM APPL.8720/2023, 50084/2024

UTTAM SINGH

.....Petitioner

Through: Ms Tanuj Bagga Sharma and Dr M K Ravi, Advocates.

versus

UOI AND ORS

.....Respondents

Through: Mr Ruchir Mishra, Mr Mukesh Kumar Tiwari and Ms Reba Jena Mishra, Advocates for R1/UOI.
Mr Sriharsha Peechra, SC, Mr Akshat Kulshrestha, and Mr D S Bhanu, Advocates for NDMC.
Ms Aakansha Kaul and Ms Rhea Borokoty, Advocates for R2/MCD.
Mr M K Singh, Advocate for DDA.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

HON'BLE MR. JUSTICE TUSHAR RAO GEDELA

VIBHU BAKHRU, J. (ORAL)

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

“(a) issue a Writ, Order or Direction in the nature of Mandamus or any other appropriate Writ, Order or Direction declaring the action of the respondents in



removing petitioner from his vending space/shop identified as T-7, I.N.A. Market, New Delhi as illegal and direct the respondents to restore status quo ante as on February 2007 with respect to the possession of the petitioner;

(b) issue a Writ of Mandamus directing the respondents to restore the structure of the petitioner's shop in the same condition as it existed on 27.2.2007;

(c) issue a Writ of Mandamus directing the respondents not to disturb possession and business activities of the petitioner on Shop No. T-7, I.N.A. Market, New Delhi;

(d) direct the respondents in the alternative to allot another shop to the petitioner during the pendency of the Writ Petition and till a proper policy of the Government is made in consonance with the National Policy of Urban Street Vendor and Hawker as per the Delhi Laws (Special Provisions) Act, 2006 and The National Capital Territory of Delhi Laws (Special Provisions) Act, 2007;"

2. It is the case of the petitioner that he is dealing in the trade of retail garments from a temporary shop at INA Market, New Delhi since the year 1977. He states that he had approached respondent no.1 for allotment of a shop/stall at INA Market, New Delhi on numerous occasions and was allocated a specific shop number (T-7, INA Market, New Delhi). The petitioner has been paying the requisite charges/cess/tax to respondent no.2/Municipal Corporation of Delhi (MCD) in respect of the said stall/shop since its allotment.

3. Although the petitioner claims that he was allotted space/stall/shop which was identified as T-7, INA Market, New Delhi, he does not have any document to establish that any such space has been allocated or allotted to him. However, it is not disputed that the petitioner has been paying the



requisite tax/cess and had also obtained an electricity connection at the said shop/stall.

4. The petitioner's shop/stall was demolished on 27.02.2007 and the petitioner was removed from the said spot. Notwithstanding the demolition of his shop, the petitioner continued to carry on the vending activities from the same spot. The petitioner also approached MCD for allotment of alternative site, however, his request was not entertained.

5. In the aforesaid circumstances, the petitioner filed the present petition praying that the *status quo ante* be restored and the respondents be restrained from removing the petitioner from the vending space/shop identified as T-7, INA Market, New Delhi.

6. Curiously, none of the agencies claim to have any jurisdiction in respect of the site in question. New Delhi Municipal Council (NDMC) states that the site in question falls within the jurisdiction of the MCD and, therefore, they have no role to play. It is also asserted that the NDMC has not taken any action against the petitioner and, therefore, the petitioner cannot have any grievance against the NDMC.

7. MCD has also filed an additional affidavit, *inter alia*, affirming as under:-

“1. That the area in question does not fall under the control of MCD and the same belongs to L&DO. Hence, the MCD has no role to play in the above said matter.

2. That encroachment removal actions in INA Market were taken w.e.f. 26.02.2007 to 28.02.2007 jointly by L&DO, NDMC, DDA and MCD under the overall



supervision and control of L&DO.

3. The action was carried out in pursuance to the directions of the Monitoring Committee constituted by this Hon'ble Court. It is submitted that during the whole encroachment removal action no item was confiscated by MCD and as per directions the MCD was only to assist the L&DO.

4. As per record no *tehbazari* has been allotted to Shri Uttam Singh by MCD.”

8. The learned counsel appearing for the Land and Development Office (respondent no.1 – L&DO) also states that the L&DO has no role to play as the space/shop does not fall within its jurisdiction.

9. The stand of the Delhi Development Authority (DDA) is also no different from that of the other agencies. The relevant extract of the counter affidavit filed by the DDA is set out below: -

“III. That the respondent No.4 DDA is a performa party and is not a necessary party. The removal of the shop of the petitioner has not been done by DDA. The said area does not fall under the jurisdiction of DDA and has nothing to do with any demolition.

IV. That DDA not being a proper Party is not concerned with the said demolition and the said area also not falling under the Jurisdiction of DDA. The answering respondent be deleted from the array of parties.”

10. It is material to refer to the order dated 15.07.2010 passed by this court in the captioned petition. The said order, *inter alia*, notes as under: -

“1. Learned counsel for L&DO states that civic agency under whose jurisdiction the INA Market falls is with MCD. Learned counsel for MCD states that she will file the status report within one week.

2. It is made clear that one of the agency either L&DO or the MCD will have to answer the question as to the



issue raised by the Petitioner.

3. In the meanwhile, NDMC will file an affidavit in this Court indicating the correct legal position. Counsel for the Petitioner refers to an interim order dated 1st August, 2008 passed by the Division Bench of this Court in a WP(C) No.5831/2007 (**Hira Lal v. UOI & Ors**) in which the same interim relief was sought.

4. In view of the delay on the part of the Respondent NDMC for not informing the Court the correct legal position, it is directed that in the meanwhile the Petitioner will be permitted to continue with his hawking business at T-7, INA Market, New Delhi. This is of course an interim order and subject to the condition that this will not create any equity in favour of the Petitioner.

5. The application stands disposed of.”

11. Thus, it is apparent that the petitioner has been carrying on his vending activities and the protective orders have been passed by this court. There has been no effective contest to the petitioner’s claim as all agencies assert that they have no jurisdiction in respect of the site in question.

12. In the meanwhile, the Parliament enacted the Street Vendors (Protection of Livelihood and Regulation of Street Vending) Act, 2014 (hereafter *the Act*) which came into force with effect from 05.03.2014. Section 3(3) of the said Act is relevant and is set out below: -

“(3) No street vendor shall be evicted or, as the case may be, relocated till the survey specified under sub-section (1) has been completed and the certificate of vending is issued to all street vendors.”

13. In the aforesaid context, a similar petition captioned **Hira Lal v UOI & Others** being W.P.(C) No.5831/2007 was disposed of by this court on 13.11.2014. The order dated 13.11.2014 reads as under: -



“This writ petition is disposed of in view of the fact that the petitioner is protected under Section 3 of the Street Vendors (Protection of Livelihood and Regulation of Street Vending) Act, 2014, which has been enacted during the pendency of this writ petition. Under the said Act, the petitioner would have the right to move a representation before the Town Vending Committee of the concerned local authority. It is clear from Section 3(3) of the said Act that no street vendor shall be evicted or, as the case may be, relocated till the survey specified under sub- section (1) of Section 3 of the said Act has been completed and the certificate of vending is issued to all the street vendors. We are informed by the learned counsel for the respondents that the survey itself has not yet begun and, therefore, the petitioner is fully protected under the new Act.

In these circumstances, the writ petition is disposed of to enable the petitioner to take recourse to the remedies provided under the said Act.”

14. The learned counsel appearing for the petitioner submits that the present petition be also disposed of in the aforesaid terms. None of the learned counsels appearing for the respondents oppose the said prayer.

15. In view of the above, we accordingly consider it apposite to dispose of the present petition in similar terms. It is so directed.

16. The petition is disposed of in aforesaid terms. Pending applications are also disposed of.

VIBHU BAKHRU, J

TUSHAR RAO GEDELA, J

JANUARY 31, 2025

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Click here to check corrigendum, if any