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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) 6964/2010, CM APPL. 8738/2023 50096/2024

SANJAY MANOCHA AND ORS

.....Petitioners

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

versus

UOI AND ORS

.....Respondents

Through: Ms Saroj Bidawat, SPC for UOI.
Mr Mananjay Mishra, Advocate for R3/NDMC.
Ms Kritika Gupta, Advocate for R4/DDA.
Mr T P Singh, Sr CGC for R5/Delhi Police.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

HON'BLE MR. JUSTICE TUSHAR RAO GEDELA

VIBHU BAKHRU, J. (ORAL)

1. The petitioners have 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 petitioners from their vending space/shop identified as T-6, T-5, T-2 and



T-3 in 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 petitioners;

(b) issue a Writ of Mandamus directing the respondents to restore the structure of the petitioners shops 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 petitioners on Shop Nos. T-6, T-5, T-2 and T-3 in the I.N.A. Market, New Delhi;

(d) direct the respondents in the alternative to allot other shops to the petitioners 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 petitioners that they are carrying vending activities from their respective temporary shops at INA Market, New Delhi since 1986-87. It is stated that the petitioners had approached respondent no.1 for allotment of a shops/stalls at INA Market, New Delhi on numerous occasions and the petitioners were allocated specific shops number (T-6, T-5, T-2 T-3, INA Market, New Delhi). The petitioners have been paying the requisite charges/cess/tax to respondent no.2/Municipal Corporation of Delhi (MCD) in respect of their respective shops/stalls.

3. Although the petitioners claim that they were allotted space/stall/shops, which were identified as T-6, T-5, T-2 T-3, INA Market,



New Delhi, respectively; they do not have any document to establish that any such space has been allocated or allotted to them. However, it is not disputed that the petitioners have been paying the requisite tax/cess and had also obtained an electricity connections at their respective shops/stalls.

4. The petitioners' shop/stalls were demolished on 27.02.2007 and the petitioners were removed from the said spots. Notwithstanding, their removal, they continued to carry on the vending activities from the same spot. The petitioners also approached MCD for allotment of alternative sites, however, the said request was not entertained.

5. In the aforesaid circumstances, the petitioners filed the present petition praying that the *status quo ante* be restored and the respondents be restrained from removing the petitioners from their respective vending space/shops identified as T-6, T-5, T-2 T-3, INA Market, New Delhi.

6. Curiously, none of the agencies claim that they have any jurisdiction in respect of the sites in question. New Delhi Municipal Council (NDMC) states that the sites 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 petitioners and, therefore, the petitioners cannot have any grievance against the NDMC.

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

“1. That the INA Market area does not fall under the control of the answering Respondent and the same is under the control of L&D.O., hence the



MCD has no role to play in the above noted matter.

2. That the encroachment removal action in INA Market has been taken on 26-28th February, 2007 jointly by the L&DO, NDMC, DDA & MCD. The encroachment removal action in INA Market Area has been taken as per the directions of the Monitoring Committee appointed by this Hon'ble Court is annexed herewith as Annexure-R2-1. During the encroachment removal action, the encroachment on public land was removed and debris etc. was lifted later on. It is further submitted that during the whole encroachment removal action no item was confiscated and the action on the part of the answering Respondent MCD was only to assist the L&DO and besides this answering Respondent had no authority to remove the encroachment on the L&DO area. Copy of the letter dated 28.03.2007 is annexed herewith as Annexure-R2-2.

3. That in view of the above position, the Respondent No.2 MCD humbly submits that at present they have no more new sites available for the allotment of Tehbazari to the Petitioners or to any other category."

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 not different from the stand of the other agencies. The relevant extract of the counter affidavit filed by the DDA is set out below:-



“A. At the outset the Respondent no.4/DDA deny each and every allegation, contention made in the application filed by the Applicants and nothing is deemed to be admitted even if not specifically traversed or denied except expressly admitted hereinafter.

B. That the Answering Respondent is a Performa party and the land in question does not fall under Answering Respondent’s jurisdiction.”

10. It is material to refer to the order dated 15.07.2010 passed by this court in the similar petition [being W.P.(C) 1870/2010] captioned ***Uttam Singh v. Uoi & Ors.*** The order dated 15.07.2010, *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 Lai 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 petitioners have been carrying on their vending activities and protective orders were passed by this court in a similar matter [being W.P.(C) 1870/2010]. There has been no effective contest to the present petition as all agencies assert that they have no jurisdiction in respect of the sites in question.

12. In the meanwhile, the Parliament has 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 operative part of 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 petitioners 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