



\$~1 & 2

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
Date of decision: 24th March, 2025

+ **CM(M) 1129/2018**
DINESH TANWARPetitioner

Through: None.

versus

NORTH DELHI MUNICIPAL CORPORATION & ORS
.....Respondents

Through: Ms. Jyoti Taneja & Ms. Santha
Smruthi, Advs. for NDMC

2

+ **W.P.(C) 9112/2017 & CM APPL. 12148/2019**
DELHI ELECTRICAL TRADERS ASSOCIATION (REGD.)
.....Petitioner

Through: None.

versus

NORTH DELHI MUNICIPAL CORPORATION AND ORS.
.....Respondents

Through: Ms. Jyoti Taneja & Ms. Santha
Smruthi, Advs. for NDMC

CORAM:

JUSTICE PRATHIBA M. SINGH

JUSTICE RAJNEESH KUMAR GUPTA

Prathiba M. Singh, J. (Oral)

1. This hearing has been done through hybrid mode.
2. None appears for the Petitioners in these matters.
3. These are two petitions relating to *Teh Bazari* in Bhagirath Palace, New Delhi near the scooter parking area.
4. The Petitioner is a society registered under the Societies Registration Act, 1860 having its registered office at 1503, Electrical Market, Bhagirath Palace, Delhi- 110006. The Petitioner society was formed in the year 1956



and has since then effectively represented the interests and needs of the traders at the Bhagirath Palace, Chandani Chowk, Delhi.

5. The writ petition, **W.P.(C) 9112/2017** has been filed by the Petitioner which is the Delhi Electrical Traders Association (hereinafter, '*Society*') on the basis that one 'Tanwar Engineers' located at 1892/13, Hari Ram Market, Bhagirath Palace, New Delhi, (hereinafter, '*shop*') is an authorised *kokhal* shop near the scooter parking in the said area. The case of the Petitioner - Society is that sometime in January 2017, upon information of an unauthorised *Khokhal* shop being set up in the Bhagirath Palace area, New Delhi, the Petitioner - Society conducted an inspection of the said shop and requested the shop owner- Mr. Dinesh Tanwar of 'Tanwar Engineers' to remove the said shop as the same is unauthorised, illegal and has blocked the sidewalk.

6. A complaint was also lodged in this regard by the Petitioner- Society with the SHO, PS Kotwali, Chandni Chowk. Consequently, it is stated by the Society that on 22nd January 2017, the said *kokhal* shop was demolished. However, the same was rebuilt.

7. Disputes arose between the said 'Tanwar Engineers' and the Society which included filing of various Right to Information ('RTI') applications, etc. Various problems are also highlighted by the Society of encroachments and illegal parking behind the west wall of the State Bank of India Building, Mahalaxmi Market.

8. The present writ petition, *i.e.* **W.P.(C) 9112/2017** prays for an appropriate writ to direct the North Delhi Municipal Corporation (hereinafter, '*NDMC*'), the Government of National Capital Territory of Delhi (hereinafter, '*GNCTD*') as also for the Commissioner of Police to remove all the *Teh*



Bazari illegal encroachments on sidewalk and illegal parking. The prayer is set out as below:

“A. issue a writ, order or direction in the nature of a writ of mandamus thereby directing the Respondents to remove the illegal teh-bahzari, illegal encroachment on public roads and sidewalks, illegal parking and other illegal encroachments upon the public land; or; B. Pass such other or further orders, writ, direction which this Hon'ble Court may deems fit and proper in the facts and circumstances of the present in favour of the Petitioner and against the Respondents.”

9. In this matter, notice was issued initially and a status report was called by the Court. *Vide* order dated 4th April, 2018, it is recorded that a Show Cause Notice (hereinafter ‘SCN’) was issued to Tanwar Engineers and a final order was passed. However, the same could not be implemented as a stay was granted in the suit filed by Mr.Dinesh Tanwar in ***Suit No.3770/2012*** titled ‘***Dinesh Tanwar v. NDMC & Ors***’. The relevant portion of the said order reads as under:

Ms. Taneja counsel for the respondent informs that a show cause notice was issued to the shop owner and a final order has been passed, however, it could not be implemented on account of a stay granted in favour of the shop keeper by the trial court in Suit No. 3770/2017 titled Dinesh Tanwar v. NDMC &Ors. She submits that she would take steps by filing an application for an early hearing. We hope that such an application would be considered by the trial court expeditiously in accordance with law, unaffected by any observations made in this order passed today. Needless to say, that the MCD would place the correct and true facts before the



appropriate court.

10. Subsequently, *vide* order dated 15th May 2018, the Court also records that the stay order granted in favour of Mr. Dinesh Tanwar has been vacated. The relevant portion of the said order reads as under:

We are informed that-the interim protection granted in, Suit No.3770/2017 titled as Dinesh Tanwar V5. NDMC & Ors. has been vacated.

11. Thereafter, an application for intervention was filed by Mr. Dinesh Tanwar being **CM APPL.20975/2018**, wherein he sought intervention and order for protection of the possession of the *Teh Bazari* site bearing no. 3521, Bhagirathi Palace, New Delhi.

12. Thereafter, an application for impleadment being **CM No. 20975/2018** was allowed *vide* order dated 30th May, 2018. A detailed order was passed and the Court was pleased to direct that the Appellate Court dealing with Dinesh Tanwar's matter would consider the appeal on an early date. The relevant portion of the order dated 30th May, 2018 is extracted below:-

“30. We request the Appellate Court to positively decide the appeal/application for interim relief in the month of July, 2018. Both parties undertake to the Court to cooperate and not to seek an adjournment from the Appellate Court. We direct the North DMC that till the final decision is taken in the civil proceedings, the Kiosk will not be allotted to any third party. We make it clear that the Appellate Court will consider the appeal/application and the submissions of the parties on merits unaffected by any observations made by this Court while deciding the application of the applicant.”



13. Further, a status report as also a reply were filed by the NDMC which are summarised below:-

- i) Status report dated 16th March, 2018 - As per the said status report, a SCN was issued to Mr. Dinesh Tanwar and the proceedings were to continue.
- ii) Reply dated 28th May, 2018 - In this reply, it is recorded that *Teh Bazari* site run by Mr. Dinesh Tanwar at site no. 3521, Bhagirath Palace, SBI Building was demolished on 17th May, 2018. It is also stated in the said reply that further encroachment removal action has been taken by the Department with the help of the Police force. The relevant portion of the said reply reads as under:

*“2. That in this regard it is submitted that the prayers made in the present writ petition already stand complied with by the answering respondent. **The tehbazari site running by Sh. Dinesh Tanwar from Tehbazari site No. 3521, Bhagirath Place, Near SBI Building, Delhi-110006, has already been demolished completely by the department on 17.05.2018.** Photographs showing the demolition action taken by the department are annexed hereto as **ANNEXURE R-2 (COLLY)**.*

*3. That further, as regards the removal of encroachments from the public roads and sidewalks in Bhagirath Place area in Chandni Chowk, **it is submitted that various encroachment removal actions have been taken by the department.** The latest encroachment removal action in the area in question has been taken by the department on 22.05.2018, with the help of police force. Letter to the Local police for providing police force for encroachment removal action in the area in question, is annexed hereto as **ANNEXURE R-3.***

4. That during the course of encroachment removal



action on 22.05.2018, encroachment removal was done in the form of demolishing the extensions by various shops on public land, demolishing the unauthorized khokhas and goods were seized which were placed on public land by way of encroachment for purposes of sale.

*5. That thus, during the course of encroachment removal action was taken for demolishing 105 thadas that had been constructed in front of the shops, which constituted encroachment on public land. Action was taken for demolishing the structure of two khokhas, which were unauthorized and without any permission. Further, 67 articles were confiscated and seized that were placed on public land for purposes of sale. Report regarding encroachment removal action taken on 22.05.2018, is annexed hereto as **ANNEXURE R-4**. List of articles seized is annexed hereto as **ANNEXURE R-5**. Photographs pertaining to the encroachment removal action taken on 22.05.2018 are annexed hereto as **ANNEXURE R-6 (COLLY)**.”*

14. On the basis of the said reply dated 28th May 2018, the stand of the NDMC is that the present writ petition is infructuous.

15. A counter affidavit dated 4th October 2018 was also filed by Mr. Dinesh Tanwar to the present writ petition in which various allegations are made against the NDMC and the Society.

16. Further, a comprehensive reply has been filed on 8th January, 2019 by the NDMC again reiterating that action has been taken for removal of unauthorized encroachment. On 11th March, 2019, the NDMC has also filed a rejoinder stating that the illegal encroachments have already been removed.

17. Mr. Dinesh Tanwar has also filed a petition *i.e. C.M.(M) No. 1129 of 2018* before this Court challenging the order dated 31st July 2018 passed in *MCA No. 06/18* titled '*Dinesh Tanwar vs. NDMC & Ors.*' by the Additional



District Judge-10 (Central), Tis Hazari Courts, New Delhi. Mr. Dinesh Tanwar has also challenged the order dated 14th May 2018 passed in Suit No. **3770 of 2017** titled '**Dinesh Tanwar vs. North DMC & Ors.**' passed by Mr. V.K. Gautam, Additional Senior Civil Judge (Central), Tis Hazari Courts, New Delhi in the said petition.

18. In the said order dated 14th May 2018, the Court has taken on record the stand of the Municipal Corporation of Delhi that the licence which was given to Mr. Dinesh Tanwar has been cancelled and therefore, no *prima facie* case is made out in the favour of the plaintiff. The relevant portion of the order is set out below:-

“8. Perusal of the letter dated 09.07.2014 issued by the defendants as well as copy of payment receipts shows that vide orders dated 03.07.2014 of the Deputy Commissioner, City Zone, MCD the Tehbazari rights qua the site in question were transferred in the name of the plaintiff after receiving requisite charges. The defendants have filed on record the copy of its order dated 02.04.2018 whereby the aforesaid order dated 09.07.2014 regarding shifting of tehbazari has been nullified and cancelled. This fact of cancellation of license by the defendants has been admitted and also been mentioned by the plaintiff in his application filed under Order 6 Rule 17 CPC. Therefore, it has been emerged from the record that at present the plaintiff is not having any valid license to remain in occupation of the site in question.

9. Considering the above facts and circumstances, I am of the considered opinion that no prima facie case is made out in favour of the plaintiff. For the same reasons, the question of balance of convenience and of irreparable loss is also tilted against the plaintiff.”

19. On looking at the matter in totality in both these cases, they relate to



removal of *Teh Bazari* encroachments in the Bhagirath Palace area in New Delhi. In the opinion of this Court, illegal occupation of public land cannot be condoned at any cost.

20. The stand of the NDMC is that all unauthorised and illegal encroachments have been removed from the area. In view thereof, no further orders are warranted in *W.P.(C) 9112/2017*.

21. The NDMC shall ensure that no fresh encroachment comes up in public land in the area of Bhagirath Palace, New Delhi.

22. Insofar as *CM(M) 1129/2018* is concerned, none appears for the Petitioner in it. This Court is of the opinion that the reasoning of the Appellate Court *i.e.* the Id. Additional District Judge is valid and does not warrant any interference.

23. Accordingly, the said Petition is dismissed. Pending applications, if any, are also disposed of.

PRATHIBA M. SINGH
JUDGE

RAJNEESH KUMAR GUPTA
JUDGE

MARCH 24, 2025

kk/ck