

Ashwani Kumar & Ors. Vs.ndmc & Ors.

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Court : Delhi

Decided On : Dec-14-2016

Appellant : Ashwani Kumar & Ors.

Respondent : Ndmc & Ors.

Judgement :

\$~ * + IN THE HIGH COURT OF DELHI AT NEW DELHI LPA3462016 & CM Nos.20733-34/2016 % ASHWANI KUMAR & ORS. Date of Judgment:

14. h December, 2016

... Petitioner

s NDMC & ORS. Through: Mr.Satish Kumar Tripathi, Advocate versus Through: Ms.Malvika Trivedi, Advocate with

... RESPONDENTS

Mr.Jitendra Kumar Tripathi, Advocate CORAM: HON'BLE MR. JUSTICE G.S.SISTANI HON'BLE MR. JUSTICE VINOD GOEL G.S.SISTANI, J.

(ORAL) 1. Although this matter was adjourned for 19th January, 2017 since the matter is listed today, both counsel submit that the matter can be disposed of today itself. Challenge in this appeal is to the order passed by a Single Bench of this Court dated 3rd May, 2016. Learned counsel for the parties submit that the only bone of contention between the parties which remains today is that while disposing of the writ petition the Single Judge permitted the appellants to continue

to carry on their activities provided they adhere to the norms as per the permission granted by the NDMC. On 8th August, 2016, the following order was passed: LPA3462016 Page 1 of 3 The appellant will file an affidavit indicating the different types of goods they want to vend with a copy to the counsel for the respondent. Prima facie we are in agreement with the appellants that they cannot be prohibited and compelled to sell water and aerated drinks and not sell wafers, chips etc. Such restrictions and stipulations would be arbitrary and capricious. It also appears that there is no justification and reason for putting restrictions on the vending hours between sunrise and sunset as this would depend on the market needs and requirements. Learned counsel for the respondent/NDMC states that the appellant had sub-let or assigned the teh bazari rights. Counsel for the appellant accepts that in case there is any sub-letting or assignment, the respondents are entitled to take action as per law. 2. Pursuant to the order passed by the Division bench, the appellants have filed affidavits giving undertaking that they would sell only packed aerated water which would include soft drinks and also sell packed beverages and packed chips, namkins but no cooking activity of any nature shall be carried out at the vending site. Learned counsel for the appellants, on instructions, submits that the vendors will not violate any of the norms/terms of the NDMC and they will not occupy area more than allotted to them or sub-let or assign their rights and in case any of the terms of the undertaking is violated, the NDMC would be free to take such action as available in accordance with law. LPA3462016 Page 2 of 3 3.

4. 5.

6. Mr.Tripathi submits that as per permission granted handicapped person will only take the assistance of a helper. Learned counsel for the NDMC submits that assistance of a helper is often misused and the challans are subsequently cut in the name of the helper who then claims independent right. It is agreed that a helper will be permitted only in the presence of the vender to whom permission has been granted to vend. Accordingly, the undertakings filed and the statements made in Court today are taken on record. Mr.Tripathhi, learned counsel for the appellants, submits that the challans will not be cut in the name of the helper.

7. We make it clear that the helper will be employed strictly in terms of the permission granted by the NDMC.
8. As prayed, the goods sealed will be released in accordance with law.
9. With these directions this appeal is disposed of along with pending applications.
10. The date fixed in the matter on 9th January, 2017 is cancelled. G. S. SISTANI, J.

VINOD GOEL, J.

DECEMBER14 2016 Jitender LPA3462016 Page 3 of 3

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