

Devi Charan Vs. Ndmc and Another

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Court : Delhi

Decided On : Feb-22-2012

Judge : The Honourable Ms. Justice Hima Kohli

Appeal No. : W.P.(C) 7613 of 2011

Appellant : Devi Charan

Respondent : Ndmc and Another

Judgement :

HIMA KOHLI, J.

(ORAL)

1. The present petition is filed by the petitioner praying inter alia for directions to respondent No.1/NDMC to relocate his present vending site to another vending site, and for further directions to respondent No.1/NDMC and respondent No.2/Delhi Police, to not disturb the petitioner at his present vending site.

2. Counsel for the petitioner states that vide order dated 25.05.2011 passed in W.P.(C) 3216/2011 filed by the petitioner and other vendors in a batch of matters taken up on the same date, the Court had directed the respondent/NDMC not to disturb the petitioner herein and other petitioners from their present hawking sites, till the vending committee completed the exercise of

determining the status of their eligibility. It was further directed that if the petitioners were found to be eligible for allotment of a vending site under the Scheme, then the aforesaid interim protection would continue to operate in their favour, till such time that the respondent/NDMC implemented the Scheme of allotment of the vending sites.

3. The order dated 25.05.2011 is enclosed with the writ petition and marked as Annexure P-1. It is submitted by the counsel for the petitioner that respondent No.1/NDMC had found the petitioner eligible for allotment of a vending site under the Scheme and his name was placed at Sr. No.1912 of the eligibility list. He states that the petitioner has been carrying on the vending business of selling readymade garments and other related items alongside the school wall, near shop No.60, Babu Market, G-Avenue Road, Sarojini Nagar, New Delhi. However, despite the said interim protection granted to the petitioner, the respondents have been harassing him and are trying to disturb him from the presently occupied site.

4. Learned counsel for the petitioner states that the aforesaid fact was brought to the notice of the Appellate authority in an appeal filed by the petitioner registered as Appeal No.271/2011. Pertinently, the aforesaid appeal was disposed of by the Appellate authority vide order dated 28.07.2011, wherein the presence of the SHO, Police Station: Sarojini Nagar had been recorded. The said officer had stated that the police had not asked the petitioner to shift from the site, which he was occupying and instead, it was submitted that perhaps the officials of NDMC may be doing so. While granting leave to the petitioner to pursue the matter against the NDMC with the Zonal Vending Committee, the aforesaid appeal was disposed of. Counsel for the petitioner submits that thereafter, the petitioner had filed an application before the Zonal Vending Committee on 05.08.2011 but, as the said committee did not respond thereto, the present petition had to be filed by the petitioner.

5. Notice was issued on the present petition vide order dated 20.10.2011. A counter affidavit has been filed by respondent No.1/NDMC. The same is not on record. Counsel for respondent No.1/NDMC hands over a photocopy of the

counter affidavit filed by him in the Registry only yesterday. It is stated in the counter affidavit that neither the area Inspector nor any other employee of respondent No.1/NDMC has been harassing the petitioner or demanding any bribe from him. NDMC confirms that the petitioner is squatting at the site as mentioned by him in the writ petition and learned counsel states that under the garb of the present petition, he is only trying to pressurize respondent No.1/NDMC to change his squatting site to a more favourable site, which is not permissible.

6. Counsel for the petitioner submits that in view of the stand taken by respondent No.1/NDMC in its counter affidavit, he does not wish to press the present petition any further. 7. Accordingly, the present petition is disposed of with directions to respondent No.1/NDMC not to disturb the petitioner from the site from where he is presently vending, in terms of the order dated 25.5.2011 passed in WP(C) No.3216/2011.

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