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\* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ W.P.(C) 5941/2022

VAISHALI (MINOR) (THROUGH NEXT FRIEND MRS. SITA  
DEVI) & ORS. .... Petitioners

Through: Mr. Aman Panwar and Mr. Harsh  
Gattani, Advocates

versus

UNION OF INDIA & ORS. .... Respondents

Through: Mr. Vineet Dhanda, CGSC for UOI  
Mr. Anuj Aggarwal, ASC, GNCTD,  
Ms. Ayushi Bansal, Mr. Sanyam Suri  
and Mr. Aishwarya Sharma, Advs. for  
R-3 & 4

**CORAM:**

**HON'BLE MR. JUSTICE YASHWANT VARMA**

**ORDER**

% **11.04.2022**

**CM APPL. 17866/2022 (Exemption)**

Allowed, subject to all just exceptions.

The application shall stand disposed of.

**W.P.(C) 5941/2022 & CM APPLs. 17865/2022 (direction)**

This petition has been preferred seeking quashing of the demolition notices dated 04 April 2022. The aforesaid demolition notices are assailed by the petitioner on whose behalf it is contended that the same have been issued in violation of the law as declared by this Court in **Sudama Singh & Ors. Vs. Government of Delhi & Anr.** (2010) 168 DLT 218 (D.B.) and **Ajay Maken vs. Union of India & Ors.** 260 (2019) DLT 58 (D.B.)

The submission of learned counsel was that the cluster which forms subject matter of the present petition, houses more than 200 families who have been staying there for decades. It is submitted that the failure on the part of the respondents to formulate a scheme for rehabilitation and

relocation is clearly violative of the principles laid down in the decisions aforementioned as well as the provisions made in the Delhi Urban Shelter Improvement Board Act, 2010.

This Court notes that the obligation to formulate a scheme for rehabilitation and relocation stands extended to clusters which stand duly notified in Section 3. In fact the Act itself while defining the expression jhuggis, jhopris and bastis provides that it would cover clusters of jhuggis which the Board may by notification declare as such. Undisputedly, no such notification has been issued insofar as this cluster is concerned.

Mr. Chauhan learned counsel appearing for DUSIB has contended that there was no obligation on the Board to formulate a scheme for rehabilitation and relocation in the absence of the present being a notified cluster. Additionally it was submitted that the Board was under no statutory obligation to frame a scheme for rehabilitation and relocation since the cluster itself existed on land belonging to the Union. Mr. Dhanda, learned counsel appearing for the Union respondent, points out that the land in question constitutes and falls in the ownership of the respondent No.1 and that since it is not a notified basti, they stand placed under no obligation to frame a scheme for relocation. The Union respondent further asserts that the petitioners have encroached upon Government land and that therefore no relief is liable to be accorded.

It becomes pertinent to note that the petitioners had also placed reliance on clause 2.6 of a Memorandum of Understanding stated to have been executed between the Ministry of Urban Development and NBCC. Clause 2.6 stipulates that the Land and Development Office of the Union respondents would take steps and action for relocation and rehabilitation of

jhuggi clusters if any existing in these colonies. Mr. Dhanda on instructions apprises the Court that there appears to be an evident and inadvertent mistake in the drawing up of clause 2.6 since it was never the intent of the Union to frame a scheme for rehabilitation or relocation in respect of jhuggis which are not notified under the provisions of the Act.

It becomes relevant to note that despite repeated queries, learned counsel for the petitioner was unable to draw the attention of the Court to any observation made or appearing in either Sudama Singh or Ajay Maken, which may be read as placing the respondents under a statutory duty to frame a scheme for rehabilitation and relocation in respect of a cluster which is not notified for the aforesaid purposes under the Act. The Court has not been shown any statutory provision which may be read or construed as placing an obligation upon either respondent No.1 or respondent no.2 to adopt rehabilitative measures in respect of unauthorised clusters which may otherwise not be notified under the Act. The petitioners do not appear to have taken any steps for requiring DUSIB or the first respondent to extend coverage of the Act to this cluster.

Consequently, the challenge in the writ petition fails, the petition along with pending application accordingly shall stand dismissed. However bearing in mind the number of families which are stated to be residing in the cluster and who face the impending spectre of eviction, the Court provides that the respondents shall stay their hands for a period of two weeks to enable the petitioner to make alternative arrangements.

**YASHWANT VARMA, J.**

**APRIL 11, 2022/mw**