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

Reserved on: 7th December, 2018

Decided on: 18th March, 2019

+ **W.P. (C) No. 1997 of 2018 with CM Nos. 8210-8211 of 2018**

POOJA SINGH & ANR.

...Petitioners

Through: Mr. Nitin Saluja and Mr. Sangam Kumar, Advocates.

versus

UNION OF INDIA & ORS.

....Respondents

Through: Mr. Sunil Fernandes, Standing counsel for BSES/RPL with Mr. Aman Vidyarthi, Ms. Anju Thomas & Ms. Priyansha Indra, Advocates.

Mr. Kirtiman Singh, CGSC with Mr. Waize Ali Noor, Advocate for UOI. Ms. Urvi Mohan Advocate for Mr. Sanjay Ghose, ASC GNCTD.

+ **CONT. CAS(C) No. 455/2018**

POOJA SINGH & ANR.

.....Petitioners

Through: Mr. Nitin Saluja and Mr. Sangam Kumar, Advocates.

versus

R.K.KULSHRESTHA & ANR.

.....Respondents



Through: Mr. Sunil Femandes, Standing counsel for BSES/RPL with Mr. Aman Vidyarthi, Ms. Anju Thomas & Ms. Priyansha Indra, Advocates.
Mr. Kirtiman Singh, CGSC with Mr. Waize Ali Noor, Advocate for UOI. Ms. Urvi Mohan, Advocate for Mr. Sanjay Ghose, ASC GNCTD.

CORAM:
JUSTICE S. MURALIDHAR
JUSTICE VIBHU BAKHRU

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ORDER
18.03.2019

Dr. S. Muralidhar, J.:

1. Two residents of the Jhuggi Jhopri *basti* ('JJ *basti*') at Pul Mithai, Naya Bazar, North Delhi filed the present petition on 20th February, 2018. They stated that they had been rendered homeless after a demolition drive was carried out by the Northern Railways (Respondent No.1) on 20th December, 2017. It was stated that about 45 jhuggies were demolished without making alternative arrangements and in violation of the directions issued by this Court in *Sudama Singh v. Government of Delhi* (2010) 168 DLT 218 (DB), the Master Plan of Delhi, 2021 ('MPD-2021'), the provisions of the Delhi Urban Shelter Improvement Board Act, 2010 ('DUSIB Act'), as well as the National Capital Territory Laws (Special Provisions) Second (Amendment) Act, 2011. It was stated that neither DUSIB (Respondent No.2) nor any other agency had



taken any action to rehabilitate the affected *jhuggi* residents in terms of the Delhi Slum and JJ Rehabilitation and Relocation Policy, 2015.

2. The petition first came up for hearing before the roster Bench of the learned Single Judge on 1st March, 2018, when the counsel appearing for the Railways sought a day's time to take instructions. The case was next listed for hearing on 5th March, 2018 when the following order was passed:

“1. On the last date of hearing, Mr. Jagjit Singh appeared for respondent No.1 and sought time to take instructions. Today Mr. Om Prakash appears for the respondent No.1. He states, he would accept notice and file a counter affidavit.

2. It is the case of the petitioners that about 400 persons (approximate) living in 45 jhuggis (hutments) at Railway Colony, Pul Mithai 11 Clusters, Tis Hazari since 1965 and having proper proof of identity and residence, have been rendered homeless after a massive demolition drive carried out by the respondent No.1 with the aid and assistance of respondent No.3 on December 20, 2017, without issuance of any notice of demolition.

3. It is the submission of the learned counsel for the petitioners that demolished jhuggi cluster was a declared "jhuggi jhopri basti" under Section 2(g) of the DUSIB Act, 2010 and it is in the list of JJ Clusters issued by DUSIB. It is also his submission that the demolition has been carried out in violation of the directions of this Court in the case of *Sudama Singh and Ors. v. Government of NCT of Delhi and Anr. (2010) 168 DLT 218(DB)* and the National Capital territory of Delhi Laws (Special Provisions) Second (Amendment) Act, 2011, the protection thereof has been extended till December 31, 2020. He states, neither respondent No.1 nor respondent No.2 till date have taken any action to rehabilitate the



affected jhuggi residents in terms of the Delhi Slum and J.J. Rehabilitation and Relocation Policy, 2015.

4. He has placed reliance on an order passed by the Division Bench of this Court in *W.P. (C) No. 11616/2015 Ajay Maken v. Union of India and Ors dated December 14, 2015*, wherein according to him the Division Bench is seized of a similar issue, with respect to the Shakur Basti where 1600 jhuggis have been demolished. He also draws my attention to para 12 of the order, which reads as under:

“12. Mr. Panwar, learned counsel for the Petitioner repeatedly stressed that the homeless people were actually living without any roof for the last two days and urged that the immediate need was to provide some form of minimum decent shelter. While the Court would not like to specify what form of shelter can be provided, it would like to impress upon the Govt. of NCT of Delhi and the Railways that they should act immediately, in coordination, to ensure that the minimum need of decent shelter is provided to the homeless displaced population at Shakur Basti. It is made clear that the displaced population should not be subjected to any further forced or violent action till such time that their satisfactory rehabilitation does not take place. The Court would like the GNCTD and the Railways to pay particular attention to the needs of shelter, health, food and education of the displaced population.”

5. He seeks a similar direction in favour of the petitioners and requests, that as a similar issue is pending consideration before the Division Bench, it would be appropriate that this matter be also listed along with Writ Petition No.11616/2015.

6. Notice. Counsels as above accept notice. Counter affidavits be filed within three weeks. Rejoinders be filed within one week thereafter.



7. Noting the submissions made above by the learned counsel for the petitioners, this Court would like to impress upon the Govt. of NCT of Delhi and the Railways that they should act immediately, in coordination, to ensure that the minimum need of decent shelter is provided to the homeless displaced population at Railway Colony, Pul Mithai JJ Clusters, Tis Hazari. It is made clear that the displaced population should not be subjected to any further forced or violent action till such time their satisfactory rehabilitation does not take place. The Court would like the GNCTD and the Railways to pay particular attention to the needs of shelter, health, food and education of the displaced population. It is also made clear that the counter affidavit to be filed by the respondents shall also state, if any survey in terms of the judgment of this Court in *Sudama Singh and Ors. v. Government of NCT of Delhi and Anr.* (*supra*) for preparing a comprehensive list of persons including men, women and children has been prepared. The details when notices were issued to each of the persons and whether and how said notices were served, be also indicated in the counter affidavit(s).

8. The learned counsel for the respondents have no objection if this matter is listed along with the W.P.(C) No. 11616/2015 . Subject to the orders of Hon'ble the Acting Chief Justice, list this matter before the Division Bench where W.P.(C) No. 11616/2015 *Ajay Maken v. Union of India and Ors* is pending, on 2th April, 2018 . Order *Dasti*.”

3. Thereafter, the writ petition continued before the present Division Bench of this Court. By an order dated 31st August, 2018, the Tata Power – Delhi Distribution Limited (‘TPDDL’) was impleaded in the writ petition as a party Respondent, as issues were raised concerning providing electricity connection in the JJ Clusters. The petition was heard along with W.P. (C) No.11616/2015 (*Ajay Maken v. Union of India*).



4. Complaining of the non-compliance with the directions issued by the learned Single Judge on 5th March, 2018, the Petitioner filed Cont. Cas (C) No.455/2018. This contempt petition first came up for hearing on 1st June 2018, when notice was issued to the Respondents/Contemnors requiring them to file their respective affidavits within two weeks. At the hearing on 27th July, 2018, the following order was passed in the contempt petition:

“1. Notices have been served on the Contemnors No. 1 & 3 only today. Replies of the Contemnors be filed within one week prior to the next date.

2. Counsel for the Petitioner points out that notwithstanding the order dated 5 March, 2018 passed by the learned Single Judge of this Court, the plight of the residents of the JJ Cluster at Railway Colony, Tis Hazari is still miserable and no steps have been taken to ensure that they are provided with decent shelter and minimum amenities. The Secretary of the DUSIB will immediately visit the Pul Mithai JJ Clusters and attend to the issues raised, particularly those concerning the minimum need for decent shelter and basic amenities including the provision and supply of drinking water, sanitation (including mobile toilets). DUSIB will file an affidavit in this regard at least one week before the next date.

3. List on 31st August, 2018 at 2.15 p.m.

4. Order dasti under the signatures of Court Master.”

5. At the next hearing on 31st August, 2018, the following order was passed:

“1. In the DUSIB affidavit, it is stated that three pieces of vacant land have been identified where the cubicle toilets are to be installed. It is stated that the-Railways (Respondent



No.1) did not allow the said pieces of land to be used for the said purpose.

2. However, learned counsel for the Railways, on instructions, states that the Railways have no objection to placing the cubicle toilets on the three identified pieces of vacant land. A direction is issued to Delhi Jal Board and the Railways to co-operate with the DUSIB in the installation of the above cubicle toilets and also with regard to the water supply and sanitation for that purpose.

3. List on 12th October 2018 at 2.15 p.m. along with connected matters.”

6. On 12th October, 2018, further directions were issued by this Court as under:

“1. Learned counsel appearing for DUSIB states that it is willing to address all the issues raised by the Petitioner provided that the site which is now with the Railways is handed over to DUSIB.

2. Learned counsel for Railways states that it has no objection whatsoever to handing over the site to DUSIB so that all the issues raised by the Petitioner may be addressed, including the installation of the cubical toilets on the identified pieces of land.

3. Learned counsel for the Railways states that Mr. M.K. Kamra, Sr. Divisional Engineer N-5, Northern Railway will remain present at the site on 16th November 2018 at 3 pm. The Chief Engineer, DUSIB is also directed to remain present at the site at the above date and time. All the formalities will be completed on that day itself so that the DUSIB can immediately undertake the work without delay.

4. A compliance report be filed in this Court by the next date.



5. Learned counsel appearing for the Tata Power Delhi Distribution Limited ('TPDDL') states that a Senior Engineer of TPDDL will also remain present at the site on 16th November 2018 at 3 pm and advise the Chief Engineer, DUSIB about what further steps have to be taken in regard to supply of electricity to the residents. A decision in that regard will be taken by the Chief Engineer, DUSIB in consultation with the TPDDL and conveyed to the residents not later than a week thereafter.
6. List on 16th November 2018 at 2:15 pm.
7. A copy of this order be given dasti to the parties under the signatures of Court Master.”
7. Thereafter, both the writ petition and the contempt petition were listed for hearing along with W.P. (C) No.11616/2015.
8. On 7th December, 2018, orders were reserved in the present petition as well.
9. By a detailed judgment pronounced today, this Court has disposed of W.P. (C) No.11616/2015 (**Ajay Maken v. Union of India**) and the applications pending therein with a series of directions. As far as the present petition and contempt petition are concerned, although pleadings are complete, detailed directions will be required to be issued after hearing counsel for the parties and in light of the judgment passed by this Court today in **Ajay Maken v. Union of India**. The implementation of the directions will also have been monitored.



10. Consequently, this Court considers it appropriate to direct that the writ petition and the contempt petition now be listed before the roster Bench of the learned Single Judge on 25th March 2019 for further hearing.

S. MURALIDHAR, J.

VIBHU BAKHRU, J.

MARCH 18, 2019

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