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

Date of decision: 19th May, 2025

+ **W.P.(C) 6666/2025 & CM APPL. 30221/2025**

DEVI CHARAN

.....Petitioner

Through: Mr. N. K. Sahoo, Advocate

versus

NEW-DELHI MUNICIPAL COUNCIL AND ORS.

.....Respondents

Through: Mr. Sriharsha Peechara, Standing Counsel

CORAM:

JUSTICE PRATHIBA M. SINGH

JUSTICE RAJNEESH KUMAR GUPTA

Prathiba M. Singh, J. (Oral)

1. This hearing has been done through hybrid mode.
2. The present petition has been filed by the Petitioner- Devi Charan under Article 226 of the Constitution of India, *inter alia*, seeking substitution of the name of the Petitioner and Respondent No. 3- Kali Charan jointly as legal heir of their deceased mother, Smt. Laxmi who passed away on 9th April 2019.
3. The case of the Petitioner is that he is 65 years of age and is the son of Smt. Laxmi W/o Late Sodan Singh. According to the Petitioner, his father Late Sodan Singh had been squatting at the Tehbazari Site No. 101-T-03, IOB Janpath, Parliament Street, New-Delhi. Thereafter, on 15th June 1999, the said site was transferred to the name of his mother. The mother of the Petitioner had three sons. One of them *i.e.* Udyaveer has passed away. The Petitioner and Respondent No. 3 are two sons who are alive.



4. It is prayed by the Petitioner that after the demise of the mother, the Petitioner ought to be given equal rights in the *Tehbazari* license.
5. Firstly, there is no Certificate of Vending issued to the mother of the Petitioner. Secondly, the allegation is that the second brother *i.e.* Respondent No. 3- Kali Charan is presently running the *tehbazari* site.
6. Both the submissions made on behalf of the Petitioner are not made out from the record. Moreover, Id. Counsel for the Petitioner submits that a representation *vide* dairy no. 233956 was made in 2019 and again in 2025 *vide* letter dated 23rd March 2025 to the New Delhi Municipal Council (hereinafter, '*NDMC*'). Id. Counsel for the Petitioner submits that the same be considered by the NDMC.
7. On the other hand, this is objected to by Id. Counsel for Respondent on the ground that under Section 5(2) of the Street Vendors (Protection of Livelihood and Regulation of Street Vending) Act, 2014 (hereinafter, '*the Act*'), only a spouse of a street vender or a dependent child can be considered for substitution and no one else.
8. The Court has considered the matter. Section 5(2) of the Act reads as under:

"5. Conditions for issue of certificate of vending.—(1) Every street vendor shall give an undertaking to the Town Vending Committee prior to the issue of a certificate of vending under section 4, that— (a) he shall carry on the business of street vending himself or through any of his family member; (b) he has no other means of livelihood; (c) he shall not transfer in any manner whatsoever, including rent, the certificate of vending or the place specified therein to any other person.

(2) Where a street vendor to whom a certificate of vending is issued dies or suffers from any permanent



disability or is ill, one of his family member in following order of priority, may vend in his place, till the validity of the certificate of vending— (a) spouse of the street vendor; (b) dependent child of the street vendor: Provided that where a dispute arises as to who is entitled to vend in the place of the vendor, the matter shall be decided by the committee under section 20.”

9. A perusal of the above provision would show that in respect of a person to whom a Certificate of Vending is issued, if such a person passes away, only the spouse or a dependent child could be considered for substitution.

10. In the present case, the Petitioner is himself 65 years of age and has not been vending at the said site for several years. The mother of the Petitioner passed away on 9th April, 2019 itself. Considering the scheme of the Act, such substitution of a son who is not a dependant, would not be permissible.

11. Ld. Counsel for the NDMC also submits that Respondent No. 3 is also not currently vending at the said site.

12. Under these facts and circumstances, no relief deserves to be granted in the present case.

13. The petition stands dismissed. Pending applications, if any, are also disposed of.

**PRATHIBA M. SINGH
JUDGE**

**RAJNEESH KUMAR GUPTA
JUDGE**

MAY 19, 2025/PU/ck