
(2023) 02 DEL CK 0069

In the Delhi High Court

Case No : Civil Writ Petition No. 1654 Of 2023, Civil Miscellaneous Application
No. 6333-34 Of 2023

Jayanti Devi

APPELLANT

Vs

Govt Of Nct Of Delhi & Ors

RESPONDENT

Date of Decision : 10-02-2023

Acts Referred:

Citation : (2023) 02 DEL CK 0069

Hon'ble Judges : Prathiba M. Singh, J

Bench : Single Bench

Advocate : Avinash, Rishikesh Kumar, Sumit Chaudhary, Virender Kumar,
Parvinder Chauhan

Final Decision : Disposed Of

Judgement

Prathiba M. Singh, J

1. This hearing has been done through hybrid mode.
2. The Petitioner- Jayanti Devi is a resident of a jhuggi at Bhairon Marg in front of Gate No.1, Pragati Maidan, New Delhi. She has filed the present writ petition challenging the impugned eviction notice bearing no. S23 (ROAD)/S.B.A. MANDAL M-321/166 dated 28th January, 2023 issued by the Public Welfare Department which reads as under:

"All you slum dwellers Bhairo Marg, Opposite Gate No.1, Pragati Maidan are informed to voluntarily demolish your slum within 15 days of information phase, otherwise, your slum will be removed with the help of police and Will be sent to the shelter home (Dwarka, Geeta Colony) identified by the Delhi Urban Improvement Shelter Board (DUSIB), in which the maximum period of stay will be 03 months."
3. The case of the Petitioner is that she has been living in this jhuggi since 2012 and also has gas and electricity connections for the said premises. Even the voter

ID card of the Petitioner is stated to have been issued to the Petitioner with the address of the said jhuggi.

4. Submission of Id. Counsel for the Petitioner is that in terms of the Delhi Slum & JJ Rehabilitation and Relocation Policy, 2015 (hereinafter 'Policy') dated 14th June, 2016, the Petitioner's jhuggi having come up before 1st January, 2015, the Petitioner is entitled to rehabilitation and the Petitioner ought not to be removed from the present place on occupation. Id. counsel for the Petitioner further submits that the jhuggi being prior to 1st January, 2015, the same cannot be demolished in view of the Policy, that too without notice and hearing.

5. Id. counsel for the Respondents, including Id. Counsel for DUSIB, have entered appearance. Mr. Chauhan, Id. Counsel for the DUSIB, upon a specific query from the Court as to whether the JJ cluster at Bhairon Marg is a notified cluster under the Policy or not, states that the Petitioner's jhuggi cluster does not belong to notified clusters, which are 675 and 82 in number.

6. Mr. Chauhan, Id. Counsel, also relies upon the recent order passed by this Court in W.P.(C) 1386/2023 titled Kash Ram v. Public Works Department, GNCTD where the Court had directed the demolition of jhuggis in Dhaula Kuan area, subject to certain conditions.

7. Heard. It is now the settled position in law that until and unless the jhuggi clusters are duly notified, stay on demolition would not be feasible.

8. This position of law has recently been reiterated by this Court in Shakarpur Slum Union v. DDA, [W.P.(C) 6779/2021, decision dated 2nd August, 2022,] wherein the Court held as under:

"37. This Court while dealing with Ajay Maken (supra) and Sudama Singh (supra) never gave any licence to any person to encroach upon Government property. However, this Court is dealing with a human problem and right to shelter has been described as right which has to be protected by Courts especially for those who will have no place to go with their family and belongings if they are faced with mid-night demolitions. In order to ameliorate the human problem, this Court in Sudama Singh (supra) had directed that the State Government must formulate a comprehensive protocol to ensure that persons who have encroached upon Government lands are not rendered shelter-less and, therefore, a rehabilitation policy has to be brought out to rehabilitate those persons. It was in pursuance of that judgment that DUSIB was made the nodal agency for rehabilitation of the persons living in JJ clusters. Parameters were laid down as to who would be entitled to the benefit of the DUSIB Policy. The judgment of this Court in Ajay Maken (supra) cannot be interpreted to mean clusters not identified by the DUSIB would be entitled to rehabilitation.

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42. Resultantly, the instant writ petition is disposed of with a direction to the DDA to carry out further demolition only in consultation with the DUSIB. The

DDA is further directed to give sufficient time to the dwellers to make alternate arrangements or, alternatively, steps should be taken to accommodate the dwellers in the shelters provided by the DUSIB for three months so that the persons, whose jhuggis are being demolished, are able to find some alternate accommodation. Pending applications, if any, also stand disposed of.”

9. In view of the fact that the impugned eviction notice itself identifies the alternative accommodation which is to be given to the Petitioner i.e., shelter home in Dwarka, Geeta Colony, it is directed that the reliefs sought by the Petitioner would not be liable to be granted.

10. The Respondent authorities will give the Petitioner a period of one week for moving to the shelter home in Dwarka, Geeta Colony.

11. It would be the responsibility of the Respondent authorities to ensure that the basic amenities at the relocated shelter home are duly made available for the Petitioner.

12. The petition, along with all pending applications, is disposed of in the above terms.