* IN THE HIGH COURT OF DELHI AT NEW DELHI

+ LPA 80/2016

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%Date of Judgment: 16th February, 2017DWARKA SECTOR 6 VENDOR ASSOCIATION..... Appellant

Through: Mr. Chetan Shandilya, Advocate.

Versus

MCD & ORS

..... Respondents

Through: Mr. Aditya Singh, Advocate for MCD.

Mr. Virender Pratap Singh Charak, Advocate with Mr. Santosh Kumar Pandey & Ms. Shubhra Parashar, Advocates for SDMC.

Mr. Peeyoosh Kalra, ASC for GNCTD with Ms.Sona Babbar & Ms. Pritika Kumar, Advocates with Insp. Adith Lily and SI Mukesh Kumar of PS Dwarka (South).

Mr. Sanjeev Singh, Advocate for R-6.

CORAM: HON'BLE MR. JUSTICE G.S.SISTANI HON'BLE MR. JUSTICE VINOD GOEL

G.S. SISTANI, J. (ORAL)

1. Challenge in this LPA is to the order passed by the learned Single Judge dated 15.10.2015 by which the writ petition filed by the appellant association seeking a direction to the respondents not to dispossess the members of the appellant association from their hawking sites i.e. Dwarka Sector-6 Market, New Delhi has been dismissed.

- 2. It is pointed out that the appellant association comprises of 72 members, but for the present only 35 members are in existence.
- 3. The grievance of the appellant is that although they have been squatting at different areas, however they were illegally removed by the respondent DDA on 27.08.2015. Learned counsel submits that the appellants are required to be protected in view of the Section 3 (3) of the Street Vendors (Protection of Livelihood and Regulation of Street Vending) Act, 2014, as per which no street vendor is to be evicted till a survey is completed and certificate of vending is issued to all the He submits that samples of challans issued to the street vendors. members of the association have been placed on record to show that the appellants have been vending since the year 2001. Learned counsel submits that although the learned Single Judge had dismissed the writ petition on the ground that the Town Vending Committee is in the process of being constituted. In fact, the Town Vending Committee is still not in place and in case the appellants are not allowed to vend, they would suffer financial hardships as this is their only source of livelihood.
- 4. We are informed that the writ petition was disposed of on the first date of hearing itself and thus no response was filed by any of the respondents. The position is no different today as there is no response by any of the statutory bodies, who have been impleaded as parties.

- 5. This petition is vehemently opposed by the counsel for the respondent no. 6 (Central Market Sector-6 Dwarka Welfare Association), which was impleaded as a party by an order dated 26.07.2016.
- 6. Learned counsel for respondent no. 6 submits that the appellants are encroachers on public land. They have no right to vend or hawk in an area, which has been declared by the MCD as "No Vending Zones" and "No Hawking Zones". Additionally, it is submitted that along with the LPA, documents pertaining to only five members of the appellant association have been filed, although an impression was created that the documents pertaining to all the members have been placed on record. He further submits that by an order 26.07.2016 a direction was issued to the petitioner to file further documents, however the said documents, which have been placed on record, are forged and fabricated, which would be evident from the fact that the receipts filed at page no. 247, 249 and 259 pertain to different persons but all the particulars on the receipts are same except the name of the persons. Counsel for respondent no. 6 further submits that neither the writ petition was maintainable nor the present LPA is maintainable as the respondent no. 6 has instituted an earlier writ petition with respect to the encroachments of the same area and same market, being WP (C) No. 3521/2006. It is contended that when the aforesaid writ petition came up for hearing on 21.09.2006, the following order was passed:

"Learned counsel for respondent no. 2 shall file a supplementary affidavit indicating the plan/action to remove encroachment, on systematic basis, from the public land in the markets in question. Let the affidavit be filed within four weeks. List on 5th February, 2007."

7. Counsel contends that remedial action was taken and the market was cleared of all encroachments, which is evident upon reading the subsequent order passed on 14.02.2008, which reads as under:

"Status report has been filed by both DDA as well as Delhi Police. The photographs show that encroachments have been removed. Details of FIR registered against persons who had encroached upon footpath and other land adjacent to the market have been enclosed with the affidavit.

In view of the action taken nothing survives in the present writ petition. However, it is directed that the respondent/DDA and Delhi Police will continue to make periodical inspections of the area to ensure that footpath and other areas are not encroached upon."

- 8. It is submitted that the appellants in connivance with officials of the respondents continued to flout the orders and the appellants, who are part of the strong mafia, continue to occupy and obstruct public areas in utter defiance of the order passed in W.P. (C) No. 3521/2006, which order was never challenged and has thus attained finality. It is also contended by the counsel for respondent no. 6 that the documents sought to be relied upon by the appellants are unreliable and in fact do not support the case of the appellants that they have been vending at the area in question since 2001.
- 9. Attention of the court is drawn to paragraphs 3 and 7 of the Crl. Misc. Application No. 17488/2016 filed by the respondent no. 6 to show that false and misleading statements have been made by the appellant. The paragraphs read as under: -

"3. That the Appellant filed false affidavit, made false statements and fabricated documents when he filed the present LPA, which is demonstrated below: -

S.No. STATEMENT MADE BY ITS FALSITY PROVEN FROM

	APPELANT/BAL KISHAN	COURT RECORD
1.	Mr. Bal Kishan filed a list of 72 persons & annexed some alleged documents in support [Annexures P2(Colly) & P3(Colly) Pg 80 to 96 of LPA] and described them as below: <u>Annexure P2(Colly):</u> "Copies of Challan Receipts of the Vendors" <u>Annexure P3(Colly):</u> "Challan by MCD and confiscation of the items from which they have been vending"	 (a) Scrutiny of these alleged documents showed that even these were with respect to only 5 persons, which was shown for 72 persons and in this garb new encroachment was being attempted. (b) Mr. Bal Kishan had shown no locus to represent anyone or file any legal case before any court, let alone 72 persons and LPA was filed giving some address of Nangloi, which the petition itself stated as residence address of Mr. Bal Kishan. (c) no vending rights were ever granted in this market area, as it is a Non Vending/Non hawking area and rather a Zero Tolerance Zone. (d) there was not even one alleged
2.	That 72 persons were	document in favour of Bal Kishan. (a) When this litigation started, there
	That 72 persons were operating as vendors in Dwarka Sec. market from the year 2001	 (a) when this hitgation started, there were no vendors in this market area and Bal Kishan himself submitted it, which was observed by High Court in impugned Order dt. 15.10.2015 in W.P(C) No. 9042/2015. "But as per averments in paras 25 and 26 of the petition the petitioners have already been dispossessed on 27.08.2015." (b) Delhi High Court vide Order dt 21.09.2006 in W.P.(C) No. 3521/06 had directed Govt. authorities to remove all encroachments in markets at Sector 6 & 10, Dwarka, N. Delhi and to continue doing so on systematic basis. (c) Delhi High Court vide Order dt. 14.02.2008 in W.P.(C) No. 3521/2006 had observed that there was no encroachment in this market and further directed DDA & Delhi Police to make periodical inspection of market area & ensure that footpath & other areas are not encroached upon by unscrupulous elements. These Orders have been placed on record in present proceedings.

		(d) Respondent No.6 had filed
		photographs & video showing there are
		no existing vendors in this market area
3.	Mr. Bal Kishan claimed	There is no such association or entity
	himself to be President of an	named Dwarka Sector-6 Vendors
	association named Dwarka	Association. Nothing was placed on
	Sector-6 Vendors Association	record to substantiate Mr. Bal Kishan
	claiming to represent 72	projecting himself as its alleged
	persons	President.

7. That the scrutiny of the Affidavit 10th August 2016 filed by Mr. Bal Kishan and copies of documents annexed, has revealed further false statements by Appellant who has filed another false affidavit on oath before this Hon'ble Court and that Appellant and his accomplices have further forged & fabricated documents to play fraud upon this Hon'ble Court, as detailed below:

7.1: False statements made in the affidavit

		AFANNUAD ST
S.No.	STATEMENT MADE/	ITS FALSITY PROVEN FROM COURT
	DOCUMENTS FILED BY	RECORD
	APPELANT	YXXX
1.	Appellant in para 4 of affidavit has stated: "I say that the appellant association is now filing proof of 37 vendors out of 72	(a) As shown above, when this litigation started, there were no vendors in this market area as submitted by Bal Kishan himself.(b) Mr. Bal Kishan filed a list of 72 persons & annexed some alleged documents in
	vendors because rest of the vendors are not having any	support as "Copies of Challan Receipts of the Vendors" AND "Challan by MCD and
	supported documents"	confiscation of the items from which they
		have been vending''
		(c) After the falsity of this statement was
		exposed, now Appellant says only 37
		vendors have any proofs, which means 35
		out of 72 vendors never had any supporting
		documents, as was being falsely claimed.
2.	Appellant now claims that	Scrutiny of even these documents shows
	37 vendors have supported	that even this is false as they are not even 37
	documents	and the nature of documents is commented
		upon against each in the sub-paras below.

7.2: List of persons with no ID and no connection with Sec. 6 Market:

[Alleged documents of each name grouped together to highlight the same]

. . .

S.No.	Name	Particulars	Pg. No.	Observation
1.	Shankar	Copy of alleged	11	Without any I.D. proof
		Receipt No.		Challan by Delhi Police for
		471005 dated		garbage.
		03.12.2013 for		No address of where it is
		Rs. 50/		booked.
2.	Laxmikant	Copy of alleged	13	Without I.D. Proof
		Receipt No.		Challan by Delhi Police for
		451684 dated		garbage. No address of where
		04.09.2013.		it is booked.
3.	Raghav			There is no I.D. Proof to even
	C C			connect these documents with
				this person.
		Copy of alleged	16	Receipt for garbage.
		Receipt No.	TA	
		45672 dated	1 0,	E
	1	02.03.2016.	22	\circ
		Copy of alleged	217	Receipt for garbage
		Receipt No.	同居在了	
		30739 dt 9.06.10	18	Receipt for garbage
	15	Copy of alleged	NS62	- 1
		Receipt No.	19	The name on receipt is Raghu
		24067 dt. 6.01.11) // W	Paswan
		Copy of alleged	20	The name on receipt is Raghu
		Receipt No.	CARD TO	Paswan
		680064 dt.28.3.06	Night -	
		Copy of alleged	ine line	
		Receipt No. 410		X.897/
		dated 20.03.2008	and the second s	
4.	Bal Kishan	Copy of Voter ID	-31	
		as ID Proof	None of Concession	
		Copy of alleged	32	Challan by Delhi Police for
		Receipt No.		garbage. No address of where
		471041 dated		it is booked.
		18.01.2014.		
		Copy of alleged	33	Challan by Delhi Police for
		Receipt No.		garbage. No address of where
		668629 dated		it is booked.
		22.08.2014	24	Imployent deserverst start
		Copy of pass	34	Irrelevant document attached
		book Corporation		to mislead the court.
5	C1	Bank	25	No LD Droof
5.	Surender	Copy of alleged	35	<u>No I.D. Proof.</u>
	Yadav	Receipt No.		Address on Dessint DZ C/2
		055273 dated		Address on Receipt is RZ C/8

		24.09.2013.		Patel Garden
6	ManalDaa		26	
6.	Manoj Rao	Copy of One side	36	No name. Back side of some
		of Voter ID card		Voter ID attached in order to
				mislead.
		Copy of alleged	37	Challan by Delhi Police for
		Receipt No.		garbage. No address of where
		668632 dt 22.8.14		it is booked.
		Copy of pass	38	Irrelevant document attached
		book Corporation		to mislead the court.
		Bank		
7.	Madhur	Copy of Voter ID	39	Only copy of ID card attached.
	Rahman	card		
		Copy of pass	40	No document to show any
		book Corporation	1000	connection.
		Bank		
8.	Devender	Copy of Aadhar	40	Name on Aadhar is different
		as ID Proof	PD 4	i.e. Devendra Khetrapal
		Copy of alleged	42	Receipt in name of different
	/ (Receipt No.	ABA	person Devi Der. For garbage.
		1046714 dated	LABES	
		20.03.2012.	SSA23	=
		Copy of alleged	43	Receipt in name of Devender.
		Receipt No.	NY N	For garbage.
		40003 dated	KK ((
		10.09.2014	61.823	
		Copy of passbook	44	Irrelevant document attached
		Corporation Bank	SEV	to mislead the Court.
9.	Gulshan	Copy of Aadhar	45	No document, only IDs given.
2.	Sabharwal	card	10	rio document, only ins given.
	Sublia wai	Copy of Voter ID	46 & 48	
		card	VILLO	
		Copy of some	47	Not a document.
		photos		Not a document.
10.	Shrey	Copy of pass	49	No document & no connection.
10.	Khetrapal	book Corporation	77	Irrelevant document attached
	Isticuapai	Bank		to mislead the Court.
11.	Rinku	Copy of Aadhar	58	to misicaa nie Court.
11.	KIIKu	as ID Proof	50	
		Copy of alleged	59	FORGED & FABRICATED
		Receipt No.		RECEIPT [THREE
		210801 dated		RECEIPTS OF SAME NO.]
		16.01.2013.		Challan by Delhi Police for
		10.01.2013.		garbage. No address of where
				it is booked.
12.	Rahul	Copy of Aadhar	60 &	SAME DOCUMENT
12.	Kallul	Copy of Aauliar	00 a	SAME DOCUMENT

		as ID Proof	63	REPEATED TO MISLEAD
				THE COURT
		Copy of alleged	61 &	FORGED & FABRICATED
		Receipt No.	64	RECEIPT [THREE
		210801 dated	-	RECEIPTS OF SAME NO.]
		16.01.2013.		SAME DOCUMENT
		10101120121		REPEATED TO MISLEAD
				THE COURT.
		Copy of alleged	62 &	Challan by Delhi Police for
		Receipt No.	65	garbage. No address of where
		39331 dated	05	it is booked
		15.07.2015		
		13.07.2013	19-10	Challan is in the name of Garg
				Creations, a shop rather than
		ALIR		any vendor.
		100m	· 01	SAME DOCUMENT
		N Sum	5	REPEATED TO MISLEAD
10				<u>THE COURT</u> .
13.	Amit	Copy of Aadhar	70	
		as ID Proof	SNA -	
		Copy of alleged	71	FORGED & FABRICATED
		Receipt No.	NKY -	RECEIPT [THREE
	1	210801 dated	1/1/1	RECEIPTS OF SAME NO.]
	1	16.01.2013.	AN G	Challan by Delhi Police for
		Greeker,	ALL ALL	garbage. No address of where
				it is booked.
14.	Lala Ram	Copy of Aadhar	68	
		as ID Proof		X.837/
		Copy of alleged	69	Challan by Delhi Police for
		Receipt No.	TIN	garbage. No address of where
		471067 dated		it is booked.
		10.02.2014.	Contractory of the	
15.	Subhash	Copy of Driving	79	
	Kumar	License as ID		
		Copy of alleged	80	Challan by Delhi Police for
		Receipt No.		garbage. No address of where
		471043 dated		it is booked.
		18.01.2014.		
		Copy of alleged	81	Challan by Delhi Police for
		Receipt No.		garbage. No address of where
		13000 dated		it is booked.
		16.01.2013		
16.	Ajay	Copy of Voter	84	
	Kumar	card as ID Proof	0.	
	Jumani	Copy of alleged	85	Receipt in name of different
L	Jumann	copy of aneged	05	Receipt in name of unforthe

r			r	~
		Receipt No.		person Sonu. For garbage.
		322066 dated		
		10.09.2007.		
		Copy of alleged	86	In name of different person
		summon dated		Sonu. For garbage.
		16.11.2010.		<u></u>
		Copy of alleged	87	Receipt in name of different
		Receipt No.	07	person Sonu. For garbage.
		21842 dated		person bond. I of garbage.
		25.11.2010.		
			88	Descript in name of different
		Copy of alleged	00	Receipt in name of different
		Receipt No.		<u>person Sonu</u> . For garbage.
	~ .	74453 dt 13.01.11	0.5	
17.	Sanjay	Copy of alleged	89	Only Summon. No ID and No
	Kumar	summon dated	TA	proof.
		03.01.2012.	· 0,	
18.	Pappu	Copy of Voter	90	O_{A}
		card as ID Proof	RID	19
		Copy of alleged	91	Challan by Delhi Police for
	12	Receipt No. dated	RAISS	garbage. No address of where
	15	06.03.2014.	ROM P	it is booked.
19.	Karam	Copy of Voter ID	92	No Proof
	Veer Singh	from Unnao, UP	1/1 1	
		Copy of some	93	Not a document.
		photo	ALL ALL	
20.	Ravi	Copy of Voter	94	THIS PERSON HAS BEEN
		card as ID Proof	ine the	CLAIMED TO BE DEAD, on
			COLORED &	27.11.2015, STILL CLAIM
				BEING MADE IN HIS
		Merria	न्नाते	NAME
		ाजनव	VI	
		Copy of alleged	97	Receipt in name of Ravi
		Receipt No. dated		Chawan. For garbage, etc.
		25.01.2010.		
		Death Certificate	96	No relevancy
		of Ravi Chauhan		2
		Copy of Aadhar	95	
		Card of some		
		Neetu Chauhan		
21.	Manish	Copy of Aadhar	98	
	Kumar	card as ID Proof	20	
		Copy of some	99,	Not relevant at all. No
		medical	100,	explanation has been given.
		documents of	100,	Clear effort to mislead the
		some Shweta	101,	Court.
<u> </u>		some sniveta	102	Court.

22.	Manoj	Copy of Voter	103	
22.	Kumar	card as ID Proof	105	
	ixumai	Copy of alleged		
		Receipt No.	104	Challan by Delhi Police for
		000683538 dated	104	garbage. No address of where
		27.05.2015.		it is booked.
23.	Gaurav	Copy of Aadhar	117	Name on Aadhar card Gauray
23.	Kumar	card as ID Proof	11/	Bansal
	Bansal	Copy of Voter	118	Name on card Gaurav
	Dansar	card as ID Proof	110	Ivanie on card Gadrav
		Copy of alleged	119	Challan by Delhi Police for
		Receipt No.	117	garbage. No address of where
		211000 dated		it is booked.
		25.03.2013.	Construction of	n is booked.
		Copy of alleged	120	Receipt in a different name
		Receipt No.	10	Pranav Bansal
	6	37825 dt. 25.6.15.		
24.	Bhupinder	Copy of Aadhar	121	Name on card is Bhupinder
	Gauhar 🖉 🌔	card as ID Proof	ABE	Gohar
	15	Copy of alleged	122	Name on Receipt. is
		Receipt No.	66687	Bhupinder. Challan by Delhi
		0329613 dated	5228	Police for garbage. No address
		14.11.2015.	1 N	of where it is booked.
25.	Manoj	Copy of Aadhar	125	
	Yadav	card of Begu	and a	
		Sarai, Bihar as ID		\sim /
			in the	
		Copy of medical		
				explanation has been given.
		Manoj Yadav		Clear effort to mislead the
			& 132	Court.

7.2: That out of these 37 persons Sanjay Bisht and Pankaj Rathor (part of original list) have accepted that they were never a vendor at Sector-6 market, Dwarka and their name has been put in the list fraudulently and have given affidavits to this effect, copies of which are enclosed as **Annexure R6/1** & **Annexure R6/2** respectively.

S.No.	Name	Particulars	Pg. No.	Observation
1.	Sanjay	Name at Sl. No.	56	
	Bisht	21 [Pg 76 LPA]		
		Copy of Voter ID		
		Card		
		Copy of alleged		Location is not related to the
		MCD Receipt No.	57	Sec. 6 market. Has given
		37824 dated		affidavit that he was never a

		25.06.2015 of B- 107, DDA Flats Pkt 2, sec.7 Dwarka	vendor of Sector-6 market and his name has been put in the list fraudulently.
2.	Pankaj Rathor	Name at Sl. No. 26 [Pg 76 of LPA]	Has given affidavit that he was never a vendor of the Sector-6 market and his name has been put in the list fraudulently.

7.4: List of alleged documents filed by Appellant with respect to persons **<u>claiming vendor rights:</u>** [Alleged documents of each name grouped to highlight the same]

S.No.	Name	Particulars	Pg. No.	Observation
1.	Ghanshyam	Copy of Aadhar	3	Name on ID Ghanshyam Madan
		Card as ID	TΛ	
		Copy of alleged	* 4 <i>4</i>	Such a certificate issued by
		Registration	3	Dept. of Food Safety are w.r.t.
		certificate from	BIERS	food safety. At bottom this
	13	11.08.2015	ARTS)	itself states: "This document
		- FRIGO	RENT	doesnot vest any right to the
		REALES	RVA 1	vendor to vend from the
			WW -	address shown in the
		V /S V) ())	Registration certificate"
		12.1	DAG	The date of issue is after the
		Sector Street	Strate 1	Vendors Act was notified.
		Copy of alleged	5	Challan in name of
		Tehbazari Receipt	in the	Ghanshyam. Contains no
		No. 197110 dt		address.
		19.10.2006 for	-	
		Rs.100/	जय	
		Copy of alleged	6	Receipt in name of
		MM Court		Ghanshyam. Contains no
		Receipt No.		address.
		000921091 for		
		Rs.100/-		
		Copy of alleged	7	Receipt in name of
		MCD Receipt No.		Ghanshyam. For garbage etc.
		51434		Address only Sec. 6 Market.
		Copy of alleged	8	Receipt in name of
		MCD Receipt No.		Ghanshyam. For garbage.
		77174 dt. 16.3.11		Address only Sec. 6 Market.
		Copy of alleged	9	Receipt in name of
		MCD Receipt No.		Ghanshyam. For garbage.
		24055 dated		Address only Sec. 6 Market.

Copy of alleged MCD Receipt No. 038312 dated 12.07.2012 Copy of alleged No. 0853210 dated 10.6.2011 Copy of alleged MCD Receipt No. 38379 dated 08.07.2015 Copy of alleged 08.07.2015 Copy of alleged 040547 dated 04.09.201510Receipt in name of Ghanshyam. Challan by Delhi Police for garbage. No address of where it is booked. Receipt No. 38379 dated 04.0547 dated 04.09.20152.Jitender TiwariCopy of alleged 040547 dated 04.09.2015152.Jitender TiwariCopy of alleged as ID Proof Copy of alleged 02.03.2015243.Avdhesh TiwariCopy of Aadhar as ID Proof Copy of alleged Copy of alleged Copy of alleged as ID Proof Copy of alleged Copy of Aadhar as ID Proof Copy of alleged Copy of alleged Copy of alleged Copy of alleged Copy of alleged Copy of Aadhar as ID Proof Copy of alleged Copy of Aadhar as ID Proof Copy of alleged Copy of Aadhar as ID Proof Copy of alleged Copy of alleged Copy of alleged Copy of alleged Copy of alle	-	1	ſ	1	
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				Candan
	T 1			Garden.
4.	Lalmati	Copy of Aadhar	25	Wife of Jitender Tiwari (Sl.
	Devi	as ID Proof		No.2)
		Copy of alleged	26	Not existing. Such a certificate
		Reg. certificate		issued by Dept. of Food Safety
		from 02.03.2015		are w.r.t. food safety. At the
				bottom this itself states: "This
				document doesnot vest any
				right to the vendor to vend
				from the address shown in the
				Registration certificate"
				The date of issue is after the
				Vendors Act was notified.
			Contraction of the	Address on the same is Sec. 6,
		110	TA	Dwarka, Rajouri Garden.
5.	Navalesh	Copy of Aadhar	27	Address is of Gaya, Bihar
	Kumar 🧹	as ID Proof	22	\circ
		Copy of alleged	28	Not existing. Such a certificate
		Registration	REAR	issued by Dept. of Food Safety
	12	certificate from	RAKKS	are w.r.t. food safety. At
		10.03.2015	NS62	bottom this itself states: "This
			SARA	document doesnot vest any
		VA IT	1/1 1	right to the vendor to vend
		143	KN (from the address shown in the
	1	Green .	Charles .	Registration certificate"
			No.	The date of issue is after the
			in the	Vendors Act was notified.
			ODIO:	Address on the same is Sec. 6,
			- The second second	Dwarka, Uttam Nagar Rajouri
		Parala	त्त्वाते	Garden.
6.	Pankaj	Copy of Voter ID	30	Address is of Siwan, Bihar
	Tiwari	as ID Proof	Constanting of the local data	
		Copy of alleged	29	Not existing. Such a certificate
		Registration		issued by Dept. of Food Safety
		certificate from		are w.r.t. food safety. At
		05.03.2015		bottom this itself states: "This
				document doesnot vest any
				right to the vendor to vend
				from the address shown in the
				Registration certificate"
				The date of issue is after the
				Vendors Act was notified.
				Address on the same is Sec. 6,
				<u>Dwarka, Uttam Nagar Rajouri</u>
				Garden.

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7.	Gulshan	Copy of alleged	50	For garbage. Address given on
	Khurana	Receipt No.		receipt is only Sec. 6.
		013078 dated		
		18.03.2014.		
		Copy of alleged	51	Receipt in name of Gulshan.
		Receipt No.		Challan by Delhi Police for
		210888 dated		garbage. No address of where
		13.02.2013.		it is booked.
		Copy of alleged	52	Receipt in name of Gulshan for
		Receipt No.		garbage.
		048670 dated		
		30.04.2013		
		Copy of alleged	53	Receipt contains address as B-
		Receipt No.	Contraction of the local division of the loc	<u>65, Subhash Park</u>
		055269 dated	TA	
		24.09.2013	1 O,	6
8.	Deepak	Copy of Aadhar	54	Name on ID is Deepak Kumar
	Arora	as ID Proof.	REAL	Arora
		Copy of alleged	55	
	12	Receipt No.	RAISS	Receipt for garbage.
	15	104003 dated	NSK2	- \
		13.12.2011.	SARA -	
9.	Vikas	Copy of alleged	66	Receipt for garbage. Address
	Kumar	Receipt No.	MA (only Sec. 6 Market
		30209 dated	Con and	
		25.06.2014.	No de la	\sim /
		Copy of Aadhar	67	No clear I.D. Proof. Nothing
		as ID Proof	001057	readable.
10.	Harish	Copy of Voter	72	
		Card as ID proof	त्तयत	
		Copy of alleged	73	Receipt for garbage. Address
		Receipt No.	Contraction of the local division of the loc	only Sec. 6 Market
		1044462 dt		
		03.01.2012.		
		Copy of alleged	74	Challan by Delhi Police for
		Receipt No.		garbage. No address of where
		12941 dated		it is booked.
		26.12.2012.		
		Copy of alleged	75 &	Challan by Delhi Police for
		Receipt No.	76	garbage. No address of where
		451728 &		it is booked.
		summon dated		
		10.10.2013		
		Copy of alleged	77	Challan by Delhi Police for

	1	r	1	
		Receipt No.		garbage. No address of where
		471042 dated		it is booked.
		18.01.2014		
		Copy of alleged	78	Receipt for garbage. Address
		Receipt No.		only Sec. 6 Market
		30274 dated		
		25.06.2014		
11.	Mahesh	Copy of Voter	82	
	Kumar	card as ID Proof		
	Yadav	Copy of alleged	83	Receipt for garbage. Address
	1 uuu v	Receipt No.	05	only Sec. 6 Market
		30276 dated		only See. o Market
		25.06.2014.		
12.	Aiox		106	
12.	Ajay	Copy of Aadhar	106,	
	Tiwari	card as ID Proof	107	
		with some	· V/	
		complaint	62	
		Copy of alleged	Bilan	Receipt For garbage
	15	Receipt No.	PARS 9	
		027341dated	STARY .	21
	~	16.05.2014.		
13.	Naresh	Copy of Voter	108	Name on card is Naresh
	Sharma	card as ID Proof	1/1.1)	Kumar
		Copy of alleged	109	
		summon dated	Contraction of the	Only Summon.
		04.06.2014	11.41	\sim /
		Copy of alleged	110	Challan by Delhi Police for
		Receipt No.	ORCH	garbage. No address of where
		471135 dated		it is booked.
		07.05.2014.	-110	
		Copy of alleged	111	Receipt For garbage.
		Receipt No.	Constant of the local division of the local	
		30210 dated		
		06.06.2014		
14.	Vinod	Copy of Aadhar	112	
	Prasad	card as ID Proof		
		Copy of alleged	113	Challan by Delhi Police for
		Receipt No.		garbage. No address of where
		12959 dated		it is booked.
		26.03.2012.		
		Copy of alleged	114	Only summon.
		summon dated		
		27.08.2011		
		Copy of alleged	115	Receipt for garbage with add.
		Receipt No.		as Sec. 6 Dwarka
	l	110.		

		82090 dt 10.8.11. Copy of alleged Receipt No. 45771 dated 17.03.2010.	116	Receipt for garbage
15.	Shasanka Shekha Shahu	Copy of Aadhar card as ID Proof Copy of alleged Receipt No. 39583 dated 22.07.2015.	123	Name on card is Shasanka Shekhar Sahoo Name on Receipt of Garbage. is Shushaku Shahu"

- 10. Counsel submits that the documents sought to be relied upon are irrelevant documents as some of the documents are *challans* issued by Delhi Police for storage of garbage. The documents do not connect with the names of the persons and address is not mentioned. It is also contended that once the order passed in WP (C) No. 3521/2006 has attained finality, the matter cannot be reheard and even otherwise the names of the appellants do not find mentioned in any of the earlier surveys carried out pursuant to the directions of the Supreme Court by either Chopra Committee or Thareja Committee. Thus, the appellants are encroachers and cannot be granted any protection.
- 11. We have heard the learned counsel for the parties and considered their rival submissions.
- 12. We find that in response to the submissions made by the learned counsel for the respondent no. 6, there is no satisfactory answer to the submission pertaining to the orders passed in WP (C) 3521/2006 having attained finality. The explanation rendered for not placing proper supporting documents on record by learned counsel for the petitioner is that whenever a raid is conducted by the officials of the

respondents, the vendors are left with no option but to run away from the area with their respective goods, which would otherwise be confiscated and penalty imposed upon them. There is also no explanation with regard to documents filed at page no. 247, 249 and 259 of the paper book, where the receipt number is the same, all particulars remain identical but the receipts stand in the name of Amit, Rahul and Rinku; except that the appellant association has filed a police complaint against two out of the three persons, who have fabricated the receipts. Copy of police complaint has been placed on record along with CM No. 6238/2017.

13. Thus, the appellants have failed to place on record the documents, which would repose confidence in the court that the appellants have been vending at the sites in question since the year 2001. The appellants are unable to show the vital documents in support of this plea. The earlier orders passed and the affidavit filed by DDA in WP (C) 3521/2006 dated 21.09.2006 and 14.02.2008 would show that the area in question was clear of all encroachments even at that stage. In case the appellants were vending at the site, which is disputed by the counsel for the respondent no. 6, the appellants would have approached this court to safeguard their interest in the year 2006 or soon thereafter. Thus, a reasonable doubt is created as to whether these are the same appellants, who were infact squatting at the time when orders were passed in WP (C) 3521/2006.

- 14. Therefore, the protection contained in Section 3 (3) would not apply to the members of the appellant association. Additionally the orders passed by this Court in WP (C) 3521/2006 cannot be allowed to be flouted.
- 15. At this stage, we restrain ourselves from making any further comments or return a finding with respect to the documents filed by some of the appellants on record although the same are not above suspecion or else their rights would be affected in case the members of the appellant association wish to approach the Town Vending Committee in support of their pleas for grant of licences and squatting sites.
- 16. Accordingly, we find no merit in the present LPA, however we make it clear that should the members of the appellant association approached the Town Vending Committee in the prescribed form, their applications would not be rejected merely because they were not found vending at the site in question provided, of course, they are able to place on record supporting documents in support of their plea that they have been vending since 2001. With these observations, the LPA and all applications are disposed of.
- 17. We also direct the statutory bodies to ensure that none of the shopkeepers encroach upon *verandahs* or public land. Counsel for respondent no. 6 also undertakes to the court that none of the members of the respondent no. 6 association will permit any shop keeper or any member of the association to encroach upon public land, extend their shops or encroach upon *verandahs* or public land. The statutory

bodies are directed to take strict action in case of violation of this undertaking.

G. S. SISTANI, J.

VINOD GOEL, J.

