

# Haiderpur Industries Owner Welfare ... vs North Delhi Municipal Corporation & Anr on 23 November, 2020

**Author: Najmi Waziri**

**Bench: Najmi Waziri**

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\* IN THE HIGH COURT OF DELHI AT NEW DELHI  
+ W.P. (C) 9301/2020  
HAIDERPUR INDUSTRIES OWNER  
WELFARE SOCIETY (REGD.) & ORS. ....Petitioners  
Through: Mr Dayan Krishnan, Senior Advocate  
with Mr Rajiv Kumar Ghawana,  
Advocate.  
versus  
NORTH DELHI MUNICIPAL  
CORPORATION & ANR. .... Respondents  
Through: Mr Mukesh Gupta, SC for North  
DMC/R-1.  
Ms Shefali Vohra, Advocate for R-2.  
CORAM:  
HON'BLE MR. JUSTICE NAJMI WAZIRI  
ORDER

% 23.11.2020 The hearing was conducted through video conferencing. CM APPL. 29993/2020 (Exemption)

1. Allowed subject to all just exceptions. The application stands disposed-off.

W.P.(C) 9301/2020 & CM APPL.29992/2020 (stay)

2. Issue notice.

3. Notice is accepted by the learned counsel named above for the respondents. At joint request of the learned counsel for the parties, the petition is taken up for disposal.

4. The petitioners are aggrieved by the two vacation notices dated 05.11.2020 and 18.11.2020 issued by the Municipal Corporation, calling upon the noticees, who are members of the petitioner Society, to vacate the premises occupied by them, which are purportedly falling in Khasra nos. 216, 217, 964/218, situate in Revenue Estate, Village Haiderpur, Delhi. The said notices have evidently been issued pursuant to the directions of the National Green Tribunal ('NGT') in OA No.756/2018 titled „Satish Kumar v. Govt. Of NCT of Delhi , where one Satish Kumar had sought removal of unauthorised industries of one Mehtab Singh, from the aforesaid lands. Order have been passed by the NGT on various dates.

5. The learned Senior Advocate for the petitioners submits that largely, the lands in occupation of the petitioners are not in the aforesaid Khasra numbers, being looked into by the NGT. Instead the petitioners are in Khasra nos. 181, 182, 183, 216, 217, 963/218, 964/218, 965/218, and 219. Some units though, may well fall under Khasra Nos. 216, 217, 964/218. However, he submits that a purported demarcation exercise was carried out without notice to the parties concerned, which ex facie would render the demarcation exercise non- est. In the absence of a valid demarcation report, the consequent eviction of the petitioners from their sites as planned by the Corporation, would therefore be arbitrary and unsustainable in law. It is argued that the petitioners have been in possession of the site in question for the past over four decades and orders in this regard have been passed by a Division Bench of this Court on 23.07.2010 in W.P. (C) No.749/1997 (batch of matters), wherein it is held as under:

"...It is admitted that the Government of India, through the aegis of the Delhi State Industrial Development Corporation, are formulating Plans for the redevelopment of twenty-two industrial areas in Delhi, as per the Master Plan-2021, and that these two villages, Haiderpur and Shalimar Bagh, fall within the contemplated industrial areas. For these reasons learned counsel for the Petitioners submits that they have instructions to withdraw their challenge to the acquisition proceedings, subject to the actual terms of the redevelopment plans or the relevant policy. Learned counsel affirms that the Petitioners shall be fully bound by the redevelopment plans or the relevant policy, as the case may be, as and when promulgated.

The question that now arises is what orders are to be passed in respect of the construction and user presently in vogue. So far as this construction is concerned, the Petitioners state that they shall maintain status quo in respect of the construction, possession, title and user, awaiting the decision aforementioned. Till this decision is taken, it is directed that all parties in these Petitions will strictly maintain status quo. It is clarified that no new construction/structure shall be put up in the area in question. There shall be complete prohibition of any conveyance or any other transaction in relation to any property in the area as long as the status quo orders continue. Wide publicity shall be given to these Orders, enjoining all occupants to maintain status quo in all respect.

Status quo shall be maintained by all the parties hereto for a period of two weeks after the declaration of the redevelopment plans and/or the policy of the Government is promulgated. In the circumstances of the case, we think it proper that the responsibility of giving publicity is laid on the Municipal Corporation of Delhi. Writ Petitions as well as pending applications are disposed of in these terms..."

6. It is further submitted by the learned Senior Advocate for the petitioners that the issue is under examination by the Government of NCT of Delhi at the policy stage. Notice for a meeting proposed to be held on 11.11.2020 was issued on 04.11.2020, to deal with stakeholders/industrial clusters notified for redevelopment. This redevelopment relates to the gazette notification issued by the Delhi Development Authority ('DDA') on 01.05.2012 (Annexure P-11), which deals with 'Regulation

For Redevelopment Of Clusters Of Industrial Concentration in Non-Conforming Areas/Unplanned Industrial Areas'. The petitioners' industrial cluster is mentioned at serial no. 17 of the Introduction clause. The first page of the said notification reads thus:

7. The learned Senior Advocate for the petitioners further submits that insofar as the GNCTD is yet to take a policy decision as to how and where these units are to be relocated, their eviction in such a hurried manner would be prejudicial to their interests and in breach of the aforementioned order dated 23.07.2010 of the Division Bench of this Court.

8. The learned Standing Counsel for the Corporation submits that the action proposed by the Corporation is as per the directions of the NGT and the petitioners may well approach the said forum for appropriate relief(s).

9. The learned Senior Advocate for the petitioners submits that the ambit and scope of the present petition is far wider than the issue raised in the NGT proceedings. He submits that the NGT itself has repeatedly directed, that action be taken 'in accordance with law'. The basic requirement in law is that the parties be heard before any precipitate measures are taken against them.

10. Nevertheless, since the respondent's action has been initiated at the instance of the NGT, it would be appropriate at this stage, for the petitioners to seek reliefs/orders/clarifications from the NGT.

11. The learned Senior Advocate for the petitioners seeks two weeks' time to move an appropriate application before the NGT.

12. In the circumstances, it is expected that the Corporation shall not initiate any precipitate action against the petitioners till that time.

13. Renotify on 27.05.2021.

14. The order be uploaded on the website forthwith.

NAJMI WAZIRI, J NOVEMBER 23, 2020/rd