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

+ **W.P.(C) 6843/2013**

CITIZEN WELFARE FORUM & ORS

..... Petitioners

Through:

versus

ANJUMAN-E-HAIDARI & ORS

..... Respondents

Through: Mr. Tasneem Ahmadi & Ms. Mahima
Rathi, Advocates for Respondent
No.1.
Mr. Vivek Goyal, Advocate for
Respondent No.4 & 6/ UOI/ L&DO.
Ms. Rukhmini Bobde & Mr.Amit
Kumar Srivastava, Advocates for
Respondent No.5/ DDA.
Mr. Sidharth Luthra, Senior Advocate
and Mr. Shri Singh, Mr. S. Gupta,
Mr.Pankaj Singhal & Mr. Hardik
Rupal, Advocates with Inspector
Seeta Ram Meena & SI Karan Singh,
PS-Lodhi Colony, for the Respondent
No.9/ DP.

CORAM:

HON'BLE THE CHIEF JUSTICE

HON'BLE MR. JUSTICE SUBRAMONIUM PRASAD

ORDER

12.09.2022

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C.M. No. 39520/2022

1. The Application has been filed in the present Writ Petition, i.e.



W.P.(C) No. 6843/2013 by the Citizen Residents Welfare Association B.K. Dutt Colony (Regd.) praying for the following reliefs:

“A. To allow the present Application and issue Directions / Orders for use of site No. 8 of DDA which has already been declared outside from the ambit of the orders dated 09.11.2005 passed in W.P © 4907/2005 by the Hon'ble High court on 3.4.2007 and was again re-iterated in Cont. Case. © No. 820/2012 & W.P. (C) 646/2012 vide order dated 18.03.2013 for use of residents for celebrating Ravan Dehan programme on the occasion of Dussehra (Vijay Dashmi) on 05.10.2022 by the applicants and residents of the area.

B. Direct the Joint CP/DCP of Lodi Colony Police Station area to ensure that the Applicant are allowed to erect tents and similar arrangements of temporary at site No. 8 of DDA land situated behind G-Block, B.K. Dutt Colony for the festive celebrations, and provide adequate security so that festivities can take place in a peaceful manner.

C. Pass any other orders as this Hon'ble Court may deem fit and proper in the circumstances of the case.”

2. Learned Senior Counsel for the Respondent No.9/ Delhi Police, at the outset, has drawn the attention of this Court towards an application i.e. C.M. No. 41831/2018 in W.P.(C) No. 646/2021. The Prayer made in the aforesaid application is reproduced as under:

“a) Allow this application or use of Parks and Public Grounds of BK DUTT colony for use of residents for Dussera, Durga Pooja, and Dipawali celebrations by the applicants and residents of the area.

b) Direct the Joint CP/ DCP of Lodi Colony Police Station area to ensure that the Applicant are allowed to erect tents and similar arrangements of temporary constructions on Khasra No.23 and Parks and grounds of Khasra No.39, including DDA Site no. 4 and 8 of B.K Dutt Colony JorBagh for the festive celebrations, and provide adequate security so that festivities



can take place in a peaceful manner.

c) Pass any other orders as this Hon'ble Court may deem fit and proper in the circumstances of the case."

3. The prayers made in the present application is covered in C.M. No. 4183/2018 in W.P.(C) No. 646/2012.

4. This Court on 08.10.2018 passed the following order in C.M. No. 41831/2018 in W.P.(C) No. 646/2012.

"CM APPL. 41831/2018 in W.P.(C) 646/2012

Having heard counsel for the parties, we are not inclined to allow the prayer in the present application. The dispute whether parks/public grounds are waqf properties or DDA properties are pending for consideration in this court. We have allowed the application filed by the sixth respondent for use of parks/public grounds in view of past practice and earlier orders.

Allowing the present application for use of parks/public grounds by others would only complicate and aggravate the situation. This would not be in public interest as some element of restraint is required. Status quo as it exists should be maintained and not disturbed since the matter is sub-judice.

Recording the above, we dismiss the application but make it clear that this order will not be construed as an order expressing opinion on merits.

W.P.(C) 646/2012

Relist on 01.11.2018, the date already fixed."

5. A perusal of the Order in C.M. No. 41831/2018 in W.P.(C) No. 646/2012 would show that the prayer of the Petitioner in the present application already stands declined. In view of the above, the relief prayed for in the present case cannot be granted.

6. In the considered opinion of this Court, since similar prayers – which



had been made earlier have been declined by an order of a Division Bench of this Court, the prayers made in the present Application cannot be granted and the only remedy available to the Applicant, is to challenge the order passed on 08.10.2018 in W.P.(C) No. 646/2012 before the Hon'ble Supreme Court.

7. With the aforesaid liberty, the present application i.e. C.M. No.39520/2022 stands disposed of.

8. Another important aspect for consideration in the case is that the affidavit which was filed in C.M. No. 41831/2018 in W.P.(C) No. 646/2012 was by one H.S. Singh, Secretary, Citizen Resident Welfare Association B.K. Dutt Colony (Regd.) and the same person has filed the affidavit in the present Application, i.e. C.M. No.39520/2022.

SATISH CHANDRA SHARMA, CJ

SUBRAMONIUM PRASAD, J

SEPTEMBER 12, 2022

B.S. Rohella