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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ W.P.(C) 11945/2022 & CM APPLs. 35694/2022, 35695/2022
KASTURBA NAGAR RESIDENTS WELFARE ASSOCIATION

..... Petitioner

Through: Ms.Kawalpreet Kaur, Mr.Haider Ali,
Mr.Paul Kumar Kalai and
Mr.Naveed, Advs.

versus

GOVERNMENT OF NCT OF DELHI AND ORS. Respondents

Through: Mr.Parvinder Chauhan, SC for
DUSIB with Mr.Sushil Dixit and
Mr.Mohit Kumar, Advs.
Mr.Ashim Vaccher, SC for DDA.

CORAM:

HON'BLE MR. JUSTICE YASHWANT VARMA

ORDER

% **17.08.2022**

CM APPL. 35695/2022 (for exemption)

Allowed, subject to all just exceptions.

The application shall stand allowed.

W.P.(C) 11945/2022 & CM APPL. 35694/2022

1. Notice. Let Mr. Chauhan, learned counsel representing DUSIB as well as Mr. Vaccher, learned counsel representing the DDA, obtain instructions.

2. The petitioners who are slum dwellers have approached this Court seeking a restraint on a demolition drive which is proposed to be undertaken tomorrow. They have also sought the issuance of appropriate directions being issued commanding the respondents to frame a scheme for rehabilitation before they are removed from site in question. Learned counsel for the petitioners contends that all the residents of this particular

cluster have been residing on this particular plot of land from prior to the cut off date as prescribed for slum clusters. It was further contended that even though this particular cluster is not notified under the Delhi Urban Shelter Improvement Board Act, 2010, in light of the judgments of this Court in **Ajay Maken and Others v. Union of India and Others**, [2019 SCC OnLine Del 7618] and **Sudama Singh & Ors. v. Government of Delhi**, [2010 SCC OnLine Del 612], the petitioners would be entitled to claim adoption of rehabilitative measures before they are removed from the site.

3. The Court further notes from the record that although a survey for identifying persons who may be entitled to benefits under the PM-UDAY scheme was undertaken prior to the issuance of the impugned notices and the proposed action of demolition, DDA does not appear to have undertaken any survey in order to ascertain the rights of persons who are residing in this cluster or to determine the date from which they have been in possession. The petitioners have placed on the record evidence which would seem to indicate they had been residing on this plot of land from prior to 2006.

4. In order to enable Mr. Chauhan and Mr. Vaccher to obtain further take instructions, let the matter be called again on 23.08.2022. Till then the respondents shall stand restrained from taking any coercive action against the petitioners.

YASHWANT VARMA, J.

AUGUST 17, 2022/bh