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

+ W.P.(C) 4362/2007

Date of decision: 27th August, 2009

NAV YUWAK GRAM VIKAS SAMITI
Through

..... Petitioner

versus

GOVT. OF NCT OF DELHI & ORS.
Through

..... Respondents

CORAM:
HON'BLE MR. JUSTICE SANJIV KHANNA

1. Whether Reporters of local papers may be allowed to see the judgment?
2. To be referred to the Reporter or not ?
3. Whether the judgment should be reported in the Digest ?

ORDER

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1. The petitioner, Nav Yuwak Gram Vikas Samiti, has filed the present petition for declaration that Sanjay Colony, which is claimed to be a village, is not part of reserved forest and is a residential area. It is claimed that in 1976 or thereafater pattas were distributed to workers of bhatti mines and the members of the petitioner samiti have been residing in the said area. It is stated that the colony has permanent structures, schools, temples, health centre, etc., which have been in existence for the last 30 years. It is further stated that request for regularization of Sanjay Colony is pending consideration and no final orders have been passed due to

pendency of the present writ petition.

2. Respondent No. 2, Department of Forest and Environment, Government of NCT of Delhi in their counter affidavit has stated that 7827 bighas and 17 biswas of Gaon Sabha land of village Asola, 2845 bighas and 17 biswas Gaon Sabha land of village Sahurpur and 2186 bighas and 13 biswas of Gaon Sabha land of village Maidan Garhi were declared to be a Wildlife Sanctuary vide notification dated 9th October, 1986 under Section 18 of the Wildlife (Protection) Act, 1972. By another notification dated 15th April, 1991, 2166.28 acres of land in village Bhatti in Khasra Nos. 708, 712, 713, 715, 1895 to 1900, 1903 to 1938 and 1940 to 1942 were declared to be part of the Wildlife Sanctuary.

3. Respondent No. 2 in their counter affidavit have quoted relevant portions of orders dated 3rd January, 1996, 9th April, 1996 and 9th May, 1996 passed by the Supreme Court in W.P. (C) No. 4677/1985 titled ***M.C. Mehta versus Union of India and Others***. In the order dated 3rd January, 1996, the Supreme Court had noticed that Bhatti Wildlife Sanctuary it was stated was encroached by three clusters, viz., Sanjay Nagar, Balbir Nagar and Indira Nagar, which together occupied about 93 hectares and had 5099 jhuggies/pucca/semi-pucca houses. The Supreme Court had directed survey of the said area for demarcating the Wildlife Sanctuary and to ensure that no construction of any type was carried out. A team appointed by the Supreme Court was to examine the area and

submit their report. Further directions were given in the order dated 9th April, 1996 for relocation of jhuggi jhopri clusters. These directions were reiterated in order dated 9th May, 1996. There was also direction that clusters should be removed by 31st October, 1996.

4. By order dated 7th February, 2006, the Supreme Court noticed the problem of encroachment and existence of jhuggi jhopri clusters/pucca and semi pucca structures in the area and it was directed as under:-

“.....The Shifting would, therefore, clear the Ridge area which was the direction made many years ago. It is represented that the infrastructure and development activities at Bawana and Holambi Kalan are complete and shifting can be effected immediately. We direct that shifting at these two places be commenced within four weeks and be completed within eight weeks. The remaining families shall be shifted as above stated by 31.05.2006.....”

5. Respondent No. 2 in this regard has also referred to notification dated 2nd April, 1996 passed by the Revenue Department pursuant to the directions were given by the Supreme Court in ***M.C. Mehta's*** case (supra) directing that uncultivated surplus land of Gaon Sabha falling in the Ridge may be excluded from vesting in the Gaon Sabhas and made available for the purpose of creation of reserved forest. Pursuant thereto and in exercise of powers under Section 154 of the Delhi Land Reforms Act, 1954, the Lt. Governor transferred Gaon Sabha land mentioned in the said notification to the Forest Department of Government of NCT of Delhi. The land transferred to the Forest Department as per the said notification in

Annexure-K includes land in village Bhatti, Tehsil Mehrauli. Against Khasra Nos. 1909 to 1916, the notification mentions that old houses semi pucca, pucca and jhuggies exist. Sanjay Nagar is also mentioned.

6. Learned counsel for the respondent further states that occupants of the said area are being provided with alternative accommodation at village Bawana but the occupants have prevented survey and are not ready and willing to shift.

7. In view of the orders passed by the Supreme Court noticed above, I do not think the prayer made by the petitioner in the writ petition can be granted by this Court. The respondents are bound by the orders passed by the Supreme Court and have to comply with the same. In these circumstances, the writ petition is dismissed.

SANJIV KHANNA, J.

**AUGUST 27, 2009
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