

\$~24

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **W.P.(C) 1470/2013 & C.M. No.2952/2013**
JAGDISH SINGH SHOKEEN

..... Petitioner
Through Mr.Anil K. Aggarwal and
Mr.Mohd.Imtiyaz, Advocates.

versus

GOVT. OF NCT OF DELHI AND ANR

..... Respondent
Through Mr.Sachin Nahar, Advocate for R-1.
Mr.G.D.Mishra, Advocate for R-2.

CORAM:
HON'BLE MS. JUSTICE INDERMEET KAUR

ORDER
% **26.08.2016**

Petitioner is aggrieved by the order dated 26.02.2013 passed by the Tehsildar, Kapashera wherein public notice had been issued. This public notice clearly specifies that pursuant to directions contained in WP(C) 14206/2009 titled *Naresh Guar and Ors. vs. GNCT Delhi and Ors.* the land has to be demarcated of the main road of village Chhawala to remove encroachment. Demarcation had been conducted on 08.02.2011 but there was encroachment found on the road. In terms of the directions of the Court in the aforementioned WP(C) 14206/2009 demarcation had been fixed for 28.02.2013 at 10.00 a.m. for which public notice was issued. Petitioner is aggrieved by this public notice.

Respondent has filed a counter affidavit. His submission is that

this public notice is clearly in compliance of the order passed in the aforementioned writ petition which has been recorded in the notice itself.

Record shows that WP(C) 14206/2009 had been filed which had been disposed of on 27.7.2011. The Court noted in that writ petition is as under:

“It is therefore deemed expedient to direct fresh demarcation. The counsel for the respondent no.2 on enquiry states that the requisite notice of fresh demarcation shall be issued within one week. On enquiry, it is further informed that notice has to be of 30 days. According it is directed that fresh demarcation be carried out on 21st September, 2011 at 1100 hours and if not concluded on the said date for any reason whatsoever, to go on from day to day. If the houses of the petitioners are found to be an encroachment on the road, the respondents to immediately take action for removal and demolition thereof.”

Clearly, it was in terms of the directions of the Bench of this Court passed on 27.7.2011 that this demarcation was to be carried out for which notice was also required to be given. This public notice dated 26.02.2013 was pursuant to the aforementioned order; in fact this is explicit from the notice itself. The notice had fixed the date for demarcation as 28.02.2013.

The further contention in the writ petition is that on 28.02.2013 the officers of the Department had arrived at the property of the petitioner with police force to forcibly mark the alleged encroachment and threaten that a demolition action would be taken against the property of the petitioner; in the prayer it has been reiterated that the

aforenoted public notice is bad.

This court is of the view that this writ petition is wholly meritless. The notice dated 26.02.2013 and the action of the SDM/Tehsildar proposing action on 28.02.2013 i.e. after a gap of two days was clearly in accordance with the order passed by this Court on 27.7.2011 in WP(C) 14206/2009.

The petitioner on the first date i.e. 06.3.2016 had been able to obtain an interim order which has been operating till date.

This Court is of the view that the impugned order does not suffer from any infirmity and it was in compliance of the directions of this Court itself.

The alternate submission of the learned counsel for the respondent that the petitioner, if aggrieved by the order passed by the Tehsildar had an alternate remedy by filing an appeal before the Deputy Commissioner is also noted.

Be that as it may, in view of the factual matrix of the instant case, the issuance of the public notice wherein demarcation has been fixed for two days after the issuance of notice is a notice which cannot be interfered with as it is in compliance of the directions passed by this court.

Writ petition is without any merit. It is dismissed with costs quantified at Rs.10,000/-.

INDERMEET KAUR, J

AUGUST 26, 2016

ndn