

\$~9

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

+ **W.P. (C) 2723/2016 & CM No.11464/2016**

BIRESH

...Petitioner

Through : Mr. Kirti Uppal, Sr. Adv. with
Mr. Yashbir Thakur and
Mr. Sidharth Chopra, Advs.

Versus

GOVT OF NCT OF DELHI AND ORS

...Respondents

Through : Mr.Amit Gupta, Adv. for
Ms.Shaila Lamba, Adv. for R1 to
R3.
Mr. Ajjay Aroraa with Mr. Kapil
Dutta, Advs. for North DMC.

CORAM:

HON'BLE THE CHIEF JUSTICE

HON'BLE MS. JUSTICE SANGITA DHINGRA SEHGAL

ORDER

19.08.2016

1. The petitioner who claims to be a permanent resident of Hanuman Kunj, Sant Nagar, Burari, Delhi filed this writ petition by way of Public Interest Litigation with the following prayers:

“I. Issue Writ, Order, or Direction in the nature of Mandamus or any other appropriate writ, order or direction in favour of the petitioner and against the respondents thereby directing the respondent No.1 to 9 to take action against the on-going unauthorized and illegal construction being done

on agricultural land in Khasra No. 23/15/1, situated in the area of Village Kamalpur Majra, Burari, Delhi and further they be directed to stop the construction being carried out on the said land and further they be directed to demolish the unauthorized and illegal construction raised after the order dated 21.02.2014 on the said land and they further be directed to prevent the sale and purchase of the said land by way of carving out the plots.

II. Writ, Order or Direction in the nature of Mandamus or any other appropriate Writ, order or direction in favour of the petitioner and against the Respondent No.5 directing thereby the Respondent No.5 to dispose of the appeal filed by the Respondent No.10 in respect of agriculture land in Khasra No.23/15/1 , situated in the area of Village Kamalpur Majra, Burari, Delhi immediately...” .

2. It is pleaded in the writ petition that in Case No. 863/SDM/CL/2013/855 titled G.S. Kamalpur Majra, Burari vs. Sh. Satpal & Others, the Respondent No.4/the Sub Divisional Magistrate, Revenue Department, Govt. of NCT of Delhi passed an order dated 04.02.2014 directing the Respondents therein to convert the land in Khasra No.23/15/1 (1-17), revenue estate of village Kamalpur Majra, Burari, Delhi to agricultural use within three months. Aggrieved by the same, the Respondent No.10 herein filed an appeal before the Collector/Deputy Commissioner (Central) along with an application for stay. Pending the said appeal, he also filed W.P.(C) No.1211/2014 with a prayer to stay the demolition proceedings as well as dispossession till the appeal

proceedings before the Collector/Deputy Commissioner are pending. The said writ petition was disposed of by order dated 21.02.2014 with a direction to the Collector/Deputy Commissioner to dispose of the appeal within eight weeks. Parties were also directed to maintain status quo.

3. The present petition is filed alleging that despite the order of status quo passed by this Court in W.P.(C) No.1211/2014 and the order dated 04.02.2014 passed by the Respondent No.4/Sub Divisional Magistrate that the land in question shall be used only for agricultural purpose, the Respondent No.10 has been constructing a shop and residential units on the land in question.

4. We have heard Shri Kirti Uppal, the learned senior counsel appearing for the Petitioner as well as the learned counsel appearing for the Respondents No.1 to 4.

5. Admittedly, the appeal preferred by the Respondent No.10 against the order of the Respondent No.4/Sub Divisional Magistrate dated 04.02.2014 is pending before the Collector/Deputy Commissioner. It also appears from the material available on record that a civil suit filed by the Respondent No.10 in respect of Khasra No. 23/15/1, village Kamalpur Majra, Burari, Delhi is pending.

6. Having regard to the proceedings pending before different fora as well as the competent court of civil jurisdiction, it appears to us that the present petition by way of Public Interest Litigation deserves no consideration.

7. Even assuming that the allegation that the Respondent No.10 has been violating the status quo ordered by this court in W.P.(C)

No.1211/2014 is true, the aggrieved parties are at liberty to avail the other remedies available under law.

8. Accordingly, the writ petition is disposed of.

CHIEF JUSTICE

SANGITA DHINGRA SEHGAL, J

AUGUST 19, 2016/gr