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

+ W.P.(C) 6517/2010

DALIT PICHRA VARG APLSANKAYAK
VIKAS SAMITI

..... Petitioner

Through: Mr. B.K. Mishra, Adv.

Versus

GOVT.OF NCT OF DELHI & ANR.

..... Respondents

Through: Mr. A. Kumar, Adv.

CORAM:

HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW

ORDER

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11.03.2016

CM No.9146/2016 in Review Petition No.126/2016 (for exemption)

1. Allowed, subject to just exceptions.
2. The application is disposed of.

Review Petition No.126/2016 & CMs No.9147/2016 (for stay) & 9148/2016 (for condonation of 28 days delay in applying for review)

3. The persons who had earlier filed an application for impleadment in the petition and who as noted in the order dated 11th January, 2016 disposing of the petition did not pursue the same, have now applied for review.

4. As noted in the order dated 11th January, 2016, this petition was filed seeking mandamus to the Govt. of NCT of Delhi (GNCTD) and to the Gaon Sabha, Holambi Kalan, Alipur, Delhi to stop illegal construction on a pond / water body in Khasra No.96/76 of Village Holambi Kalan and to preserve

and maintain the said pond as a natural water body. As further noticed in the said order, the respondents also admitted the position to be so.

5. Review is sought on the basis of order dated 15th January, 2014 in W.P.(C) No.2296/2013 titled ***Vijay Pal & Ors. Vs. Government of NCT Delhi & Ors.*** and on the basis of the judgment dated 31st July, 1986 in Suit No.332/1983 titled ***Hari Chand Vs. Man Singh*** of the Court of Sh. D.K. Malhotra, Sub-Judge, Delhi.

6. W.P.(C) No.2296/2013 supra was filed to prohibit GNCTD from demolishing / removing the houses of the petitioners therein situated in Khasra No.96/76 Village Holambi Kalan, Narela, Delhi. The same was vide order dated 15th January, 2014 disposed of on the statement of the counsel for the respondent GNCTD that the demolition required to be carried out had already been carried out and no further demolition in the same Khasra was required to be carried out and that the issue of redevelopment of the area was pending consideration before Hon'ble the Lt. Governor.

7. In my view, the said order dated 15th January, 2014 does not create any rights in favour of the review applicant. This Court has vide order dated 11th January, 2016, of which review is sought, directed all encroachments over the water body in the said Khasra No.96/76 to be removed and the restoration of the water body to its original state. If for doing the same, any house of any of the review applicants is required to be removed, the order dated 15th January, 2014 does not protect the same. The larger public interest in preservation and maintenance of water body as has already been recognised in various dictas of the Supreme Court has to prevail over the individual rights.

8. As far as the judgment supra of the Court of the Sub-Judge, Delhi is concerned, the contention of the counsel for the review applicant is that though the said suit pertains to the same Khasra number but it was not stated in the said suit that the said land is a water body.

9. Merely because an another party suit no such thing was stated would not take away from the counter affidavit of the respondents, who do not appear to be parties to the said suit, to the effect that there is a water body. Moreover, the said judgment also records that the plaintiff in the suit was not proved to be the owner and the subject Khasra number is of the Gaon Sabha.

10. No ground for review is thus or even otherwise made out.

11. Dismissed.

RAJIV SAHAI ENDLAW, J.

MARCH 11, 2016

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