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IN THE HIGH COURT OF DELHI AT NEW DELHI

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CONT.CAS(C) 848/2013 & CM APPL. 6967/2014

SMT SANTOSH GOEL & ORS

..... Petitioners

Through: Mr. Santosh Pratap, Advocate.

versus

D DIPTIVILASA, VICE CHAIRMAN DDA & ORS Respondents

Through: Mr. Ajay Verma, Advocate for DDA.

CORAM:

HON'BLE MR. JUSTICE MANMOHAN

ORDER

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12.08.2016

Present contempt petition has been filed alleging wilful disobedience of the judgment dated 19th September, 1997 in Civil Writ No.4039/1994 as well as subsequent judgment dated 24th August, 2001 in the same writ petition passed by the Division Bench.

Learned counsel for petitioners states that on 06th September, 2013 without any intimation and without following the due process of law, respondents demolished the construction on Plots No.68 and 70 and boundary wall on Plot No.70 as well as immediately constructed the boundary wall with iron fences with malafide intent to grab the petitioners' property.

Learned counsel for petitioners relies upon the last paragraph of the judgment and order dated 24th August, 2001 passed in the aforesaid writ petition. The said paragraph is reproduced hereinbelow:-

“In these proceedings we cannot decide any disputed question of title sought to be raised by respondents 5 to 13 and in view of the position as is reflected in revenue records and is reflected in the proceedings under the Land Acquisition Act, no other or further direction deserves to be issued to respondents 1 to 4 except by directing that till possession is obtained in accordance with law, respective possession of the parties, as aforementioned, will not be interfered with. Ordered accordingly. With respect to the portion “D” shown in the sketch plan, position is admitted that 1 bigha 14 biswas is in possession of the petitioners and the remaining 1 bigha belongs to Community of Chamaran. We need not make any order with regard to that portion in this writ petition since respondents 1 to 4 admit this position and possession of petitioners and of Community of Chamaran cannot be disturbed except in accordance with law. Writ petition accordingly is disposed of leaving the parties to bear their respective costs.”

(emphasis supplied)

Upon a reading of the said judgment, it is apparent that the Division Bench concluded that it could not decide the disputed question of title sought to be raised by respondents No.5 to 13. What the Division Bench directed was that the possession of the petitioners in 1 Bighas and 14 Biswas of land shown in the sketch plan as ‘D’ and the remaining 1 Bigha belonging to the Community of Chamaran was not to be disturbed except in accordance with law.

Since the present land of the present petitioners who were arrayed as respondents No.5 to 13 in Civil Writ No.4039/1994 was declared to be disputed, there is no question of any specific area being admittedly in their possession.

Moreover, as it is the case of respondent-DDA that petitioners had raised unauthorised construction after encroaching upon an area not covered by the judgment and order dated 24th August, 2001, the present contempt petition and application are dismissed.

However, if petitioners are aggrieved by any alleged demolition, they are free to file any other proceeding in accordance with law. Rights and contentions of all parties are left open.

MANMOHAN, J

AUGUST 12, 2016

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