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

+ **W.P.(C) 5038/2015 & C.M.No.9115/2015**

HASSAN MOHAMMAD & ORS. Petitioners

Through **Mr.Sandeep Bajaj, Advocate.**

versus

SOUTH DELHI MUNICIPAL CORPORATION & ORS.

..... Respondents

Through **Mr.Sanjay Poddar, Sr.Advocate with
Ms.Arunima Dwivedi, Advocate for
R-1/SDMC.
Mr.Yeeshu Jain with Mr.Jyoti Tyagi,
Advocates for R-2.
Mr.Peeyosh Kalra, Advocate for R- 3
& 4/GNCTD.**

+ **W.P.(C) 4074/2015 & C.M.No.7290/2015**

YASEEN & ANR Petitioners

Through **Mr.Somesh Chandra Jha, Advocate.**

versus

GOVERNMENT OF NCT OF DELHI & ORS Respondents

Through **Mr.Amit Singh with Ms.Neha
Rastogi, Advocates for R- 1 to 3.
Mr.Wajeeh Shafiq, Advocate for
Delhi Waqf Board.**

CORAM:

HON'BLE MR. JUSTICE MANMOHAN

ORDER

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21.03.2016

Present writ petitions have been filed challenging the orders
dated 17th September, 2014 and 2nd March, 2015 passed by the Public

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Grievances Commission (PGC), Govt. of NCT of Delhi. A prayer has also been made directing the respondent no.2 to correct the revenue record from 'kabristan' to 'custodian'.

During the pendency of the present writ petition, the PGC vide order dated 27th May, 2015 has observed as under:-

".....Sh. Bharat Bhushan, Senior Town Planner, SDMC has now claimed that Khasra No.1575 belongs to SDMC and on the other hand, the affected resident, Sh. Hassan Mohammed & Ors. have claimed that MCD has lost the case in the Court of Sh. J.D. Kapoor, Addl. District Judge, Delhi and accordingly, the land being disputed land, was put under police custody.

Sh.Bharat Bhushan, Senior Town Planner, SDMC informed that they have filed a Writ Petition (C) No.5038/2015 in the Hon'ble High Court of Delhi in the matter of "Hassan Mohammed & Ors Vs. South Delhi Municipal Corporation & Ors." and the next date of hearing is scheduled for 4/8/2015. The Commission observed that the issue before the Commission was not of ownership, but for removal of encroachment from the land, which was under the custody of Delhi Police.

The Commission expressed its anguish at the failure of SDMC to protect the land over which it now claiming ownership. SDMC is directed to protect the land over which it claims ownership, till the issue of ownership is settled by the Hon'ble High Court of Delhi. In the interim, the Delhi Wakf Board is directed not to carryout any construction including construction of boundary wall.

4. Directions of the PGC

Since the case has now become sub-judice before the Hon'ble High Court of Delhi, the case is ordered to be closed before the Public Grievance Commission, as the Commission does not have mandate to hear the cases which are sub-judice before any Court of Law."

In view of the aforesaid order dated 27th May, 2015, this Court is of the view that the impugned orders dated 17th September, 2014

and 2nd March, 2015 stand reviewed by the PGC.

This Court is also of the view that the PGC had no jurisdiction to direct correction of the revenue records.

In fact, learned counsel for Delhi Waqf Board states that the Waqf Board will independently apply for correction of the revenue entries before the Revenue Authority.

Mr. Peeyosh Kalra, learned counsel appearing for GNCTD and Delhi Police states that, in the event the said application is filed by the Waqf Board, the same shall be disposed of within a period of 12 weeks, after hearing all the parties concerned including Delhi Police.

The statements made by learned counsel for the Delhi Waqf Board and GNCTD are accepted by this Court and both the Delhi Waqf Board and GNCTD are held bound by the same.

This Court however clarifies that it has not expressed any opinion on the merits of the controversy. Rights and contentions of all the parties are left open and the parties are free to avail of appropriate remedies in accordance with law.

With the aforesaid observations and directions, the present writ petitions and applications stand disposed of and all the interim orders passed by this Court stand vacated.

MARCH 21, 2016
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MANMOHAN, J