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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ LPA 515/2016
SIMMI KAUR

Through Mr A.K. Singhla, Sr. Adv. with Mr
Vikas Negi with Mr Abhishek Khanna,
Adv. Appellant

versus

MUNICIPAL CORPORATION OF DELHI (NORTH) & ORS

Through Mr Ajjay Aroraa, Adv.f or NDMC
Mr Yeeshu Jain, Adv. for R3 – Land &
Building Dept.
Mr Saroj Bidawat, Adv. for UOI Respondent

CORAM:

HON'BLE MR. JUSTICE SANJIV KHANNA

HON'BLE MR. JUSTICE JAYANT NATH

ORDER

% **19.09.2016**

CM 34064/2016 (exemption)

Exemption allowed subject to all just exceptions.

The application stands disposed of.

LPA 515/2016 & CMs 34062/2016 (stay) and 34063/2016 (for filing additional documents)

This Intra Court appeal impugns the order dated 26.07.2016 whereby the writ petition filed by the appellant has been dismissed.

The appellant had earlier filed a civil suit in respect of the same land before the Civil Judge, for a decree of permanent injunction for restraining the Municipal Corporation of Delhi from interfering with physical possession and enjoyment of the 773 sq. yards of land falling in Khasra No.326/2, Khat/ Khatoni No.88, situated with the abadi of Village – Salempur Mazra, Madipur, Delhi.

In the written statement, the Municipal Corporation of Delhi had submitted that the land in question was shown as a 'park' in the layout plan approved by the

Municipal Corporation of Delhi on 26.08.1962. This plan was approved by the Delhi Development Authority in 1979, after verification. Further, the park was handed over to Municipal Corporation of Delhi by the Land and Development Department of the Union of India on 21.07.1978. It is an accepted and admitted position that the land is not constructed upon and is being used as a park. The civil suit seeking permanent injunction was dismissed.

The appellant claims that they have acquired the ownership title on the aforesaid land in terms of sale deed dated 30.05.2008 purportedly executed by Ramkali Devi, who in turn relies upon the sale deed executed on 03.10.2003.

Having heard the parties, we find that the Ld. Single Judge was right in dismissing the writ petition keeping in view the fact that land is located in an unauthorized colony which was regularized in the year 1977. Before regularization, the survey of the area was conducted and as per the layout plan prepared in 1962, the area was shown as a 'park'. The land continued and remained as a park as is apparent from the verification undertaken by the Delhi Development Authority in 1979. It continued and remains as a park even today.

The park has to be used by the public, as has been the case since 1962. It is too late for the appellant to claim any right, title or interest in the park. No construction should be and can be carried out in the said park.

The appeal is dismissed.

Pending CMs are also disposed of.

SANJIV KHANNA, J

JAYANT NATH, J

SEPTEMBER 19, 2016/rd