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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **W.P.(C) 10369/2016**
SUMITRA SAINI AND ANR

..... Petitioners

Through Mr. N.S. Dalal and Mr. Devesh Pratap
Singh, Advs.

versus

GOVT OF NCT OF DELHI AND ORS

..... Respondents

Through Mr. Sanjoy Ghose, ASC with Mr.
Rishabh Jetley and Ms. Pratishtha Vij,
Advs for GNCTD.

CORAM:

HON'BLE MS. JUSTICE INDERMEET KAUR

ORDER

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04.11.2016

The petitioner is aggrieved by the demarcation report dated 10.05.2016 carried out by Maverick Engineer (Pvt.) Ltd. LSC, Gazipur Chow, Delhi qua the property in question i.e. land bearing khasra Nos.2351/20 & 2352/20 in village Khirkhi, New Delhi. Submission is that the demarcation of this land has already been carried out under an earlier order passed by this Court on 18.03.2013. This demarcation report dated 02.11.2015 is already on record and as such a fresh demarcation could not have been carried out. Learned counsel for the petitioner additionally submits that the demarcation which was proposed in May, 2016 was the subject matter of W.P. (C) No.5098/2016 which was disposed of by this Court on 22.08.2016. Submission of the learned counsel for the petitioner is that liberty had

been granted to the petitioner to challenge the demarcation of May, 2016 which he has now challenged by way of this present petition.

Learned counsel for the respondent, on advance notice has put in his appearance. He informs this Court that a suit qua all these demarcation reports is pending before the concerned Civil Judge i.e. Suit No. 302/2011 titled 'Hari Singh Saini Vs. Deputy Commissioner (South) and Another'. Submission is that the subsequent order passed by the learned Civil Judge on 03.09.2016 has taken care of all these reports i.e. not only the demarcation report dated 29.06.2010, 02.11.2015 but also the subsequent report dated 23.07.2016. This is clear from the order passed by the learned Civil Judge on 03.09.2016. Copy of that order has been placed on record.

Learned counsel for the petitioner submits that this suit is admittedly of the year 2011 and the demarcation report of the year 2016 could not have been the subject matter of challenge in that suit. This submission is belied by the fact that on 03.09.2016, the learned Civil Judge had asked the District Magistrate to produce all the aforementioned three demarcation reports (29.06.2010, 02.11.2015 & 23.07.2016). One applicant before that Court had moved an application seeking impleament. The impleadment application has been allowed.

Today a proposal has been put to the learned counsel for the petitioner informing him that if he wishes to seek impleadment in that suit, he can be granted permission. He is however not acceding to this proposal. His submission is that the authority to carry out this demarcation in May/July, 2016 by the requisite authorities was not

permissible in view of the earlier demarcation report dated 02.11.2015.

Be that as it may, noting the submissions and counter submissions of the parties as also the averments in the petition which relate to a restoration of the water body in question, this Court is of the view that the Civil Court already having been seized of the matter, it would be appropriate for the petitioner to get himself impleaded before the Civil Judge; if he is not desirous of that option, he may await the decision of the Civil Judge in that suit. This Court also notes that a similar writ petition i.e. W.P. (C) 9372/2015 had been filed by the same petitioner before another Coordinate Bench of this Court who had also observed that the petitioner should await the decision of the Civil Judge. Copy of that order dated 22.01.2016 has also been placed on record.

This Court is of the view that this petition is not maintainable. Dismissed.

INDERMEET KAUR, J

NOVEMBER 04, 2016

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