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

+ LPA 680/2015 & C.M.No.22146/2015

RAM CHANDER & ORS.

..... Appellants

Through: Mr.Harish Malhotra, Sr.Adv. with
Mr.Dhruv Kapur, Mr.Vijayender
Kumar and Mr.Siddharth Bhatia,
Advocates.

versus

MUNICIPAL CORPORATION OF DELHI & ORS. Respondents

Through: Ms.Biji Rajesh and Mr.Mrinal Beri,
proxy counsels for Mr.Gaurang
Kanth, Adv. for MCD.
Mr.Rajat Malhotra, Adv. for PWD/
R-2.
Mr.Sugriva Dubey, Adv. for R-3.

CORAM:

HON'BLE MR. JUSTICE S. RAVINDRA BHAT

HON'BLE MS. JUSTICE DEEPA SHARMA

ORDER

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18.04.2016

1. The appellant is aggrieved by the order of the learned Single Judge dated 28.09.2015. The appellants urge that they are rightful owners in possession of lands over which neither the Municipal Corporation of Delhi nor the Public Works Department of the Govt. of NCT of Delhi can legitimately claim ownership rights. It is further urged that the said authorities cannot establish that the lands occupied and constructed upon by the appellants are or were at any time earmarked for any public purpose such as building roads etc.

2. It is submitted that in the circumstances, the learned Single

Judge's decision of grating liberty to the authorities to undertake demolition was unwarranted.

3. Counsel for the respondent as well as the counsel for an applicant who claims to represent the interest of local residents contends that the appellants do not have any right over the property which they are alleging to be owners in possession of for the last 30 years. It is submitted on behalf of the respondents that the appellants do not have any ownership rights and that their case could not have been one of permissive possession in the absence of any authorisation to construct over public land/street for a limited duration. It is further argued that the dispute sought to be urged cannot be gone into in the circumstances and the order of demolition was validly made.

4. This Court is of the opinion that since there is some prima facie dispute as to the ownership of the lands and even with respect to the extent thereof, the appellants if at all wish to establish their rights, they should do so through appropriate proceedings i.e. filing of suit. At the same time, the Court is aware that the impugned order has virtually directed the respondents to carry out demolition. In these circumstances, the Court hereby directs the parties to maintain status quo for a period of two months. It is open to the appellants to approach the civil court through a suit or other appropriate civil proceedings. In such proceedings it is also open to the appellants to seek interim relief which may be permissible in law. In the event of the appellants approaching the civil court, nothing stated in the impugned order of 31.07.2015 and the subsequent directions made in terms of the impugned order of 28.09.2015 will be construed as an

expression on the merits of the case; all rights and contentions available to both the parties are kept open. It is open to the civil court to extend, vary or vacate status quo order directed by the court, in the course of its orders to be made after due consideration of the interim application. In case the petitioner fails to approach the civil court within two months, the respondents are free to take actions pursuant to impugned order.

5. The appeal along with the pending application is disposed of in the above terms.

S. RAVINDRA BHAT, J

DEEPA SHARMA, J

APRIL 18, 2016

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