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IN THE HIGH COURT OF DELHI AT NEW DELHI

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W.P.(C) 7512/2010

M/S AYUSH SERVICES AND CONSULTANCY

AND ANR

..... Petitioners

Through: Mr Navin Kumar, Ms Rashmeet
Kaur, ms Akansha Chauhan and Ms
Arpana Majumdar, Advocates.

versus

UOI AND ORS

..... Respondents

Through: Mr Jaydeep Mazumdar, Ms MoMota
C. Bhattacharya and Mr Kamlesh
Kumar, Advocates for N. Railway.
Mr Pushkar Sood and Mr Virendra
Kumar Tiwari, Advocates for R-
3/DMRC alongwith Mr Punit Garg,
Law Officer, DMRC.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

ORDER

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13.11.2017

W.P.(C) 7512/2010 and CM APPL. 21081/2010

1. The petitioners have filed the present petition, *inter alia*, impugning the letter dated 23.07.2010 (hereafter 'the impugned letter') issued by respondent no.2, Divisional Railway Manager, Northern Railways, directing respondent no.3, Delhi Metro Rail Corporation Limited (hereafter 'DMRC') to remove the structure built on the commercial space at metro premises of New Delhi Metro Station.

2. The principal dispute relates to a plot of land measuring

approximately 58 sq. metres, which is located in front of New Delhi Railway Station on Ajmeri Gate side (hereafter the 'plot in question'). Admittedly, the possession of certain lands, which includes the plot in question, was given by respondent nos. 1 and 2 (Northern Railways) to DMRC on 20.01.2006. This was on exchange basis and it is stated that a plot of land measuring approximately 7,122 sq. metres on Bhavbhuti Marg, New Delhi was handed over by DMRC to Northern Railways in exchange of certain other lands including the plot in question.

3. It is not disputed that such exchange took place; however, the learned counsel for Northern Railways contends that the said exchange was only temporary and not permanent.

4. DMRC invited bids for development and commercial exploitation of the plot in question on license basis in November, 2009. The petitioner submitted its bid pursuant to the said invitation, which was accepted by DMRC on 07.01.2010. The petitioner paid a sum of ₹29 lakhs to DMRC towards security deposit and quarterly license fee and the possession of the plot in question was handed over by DMRC to petitioner no.1. Petitioner no.1 in turn sub-licensed the work of developing the commercial space to petitioner no.2. DMRC approved the building plans/structural drawing for construction of a restaurant on the plot in question and, thereafter, commenced construction on the plot in question.

5. There is no dispute between DMRC and the petitioners regarding the construction carried out on the plot in question. The disputes involved are essentially between Northern Railways and DMRC. However, even Northern Railways does not dispute that the plot in question was handed

over by Northern Railways to DMRC and there was an exchange of lands, which was reflected by DMRC and Northern Railways jointly signing a statement and the site plan.

6. Plainly, the petitioner cannot be prejudiced on account of disputes between Northern Railways and DMRC. The petitioner is in possession of the plot in question on a license from DMRC and as mentioned above, DMRC was admittedly put in possession of the plot in question.

7. The controversy involved in this petition was considered at length at an interim stage and this Court by an order dated 11.02.2011 confirmed the interim order passed earlier and directed Northern Railways not to take any precipitate action or to interfere with the petitioners' possession of the plot in question except in accordance with due process of law.

8. The learned counsel appearing for Northern Railways also submits that the parties (Northern Railways and DMRC) are endeavouring to resolve their *inter se* disputes amicably. This, undoubtedly, would be the most apposite course for Northern Railways and DMRC to follow. However, in the event the said parties are unable to do so, it would be open for Northern Railways to ensure that appropriate proceedings are initiated against DMRC. However, Northern Railways shall not interfere with the petitioners' possession of the plot in question till the said disputes are finally adjudged/settled in accordance with law.

9. In the event, it is found by a competent Court that Northern Railways is entitled to recover possession of the plot in question from DMRC, the petitioner would have to yield possession to Northern Railways and claim such relief as available from DMRC.

10. The interim order passed on 11.02.2011 shall continue till the final resolution of the disputes. It is clarified that all rights and contentions of the parties are open.

11. The petition and pending application are disposed of with the aforesaid directions.

VIBHU BAKHRU, J

NOVEMBER 13, 2017

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