

\$~38

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **W.P.(C) 6324/2017**
GOKUL KUMAR

..... Petitioner
Through Mr. Sandeep Sethi and Mr.
Sudhanshu Batra, Sr. Advocates with
Mr.Arvind Kumar Gupta, Ms. Alpana
Malik and Mr. Amit Mehta, Advs

versus

GOVT OF NCT OF DELHI AND ORS

..... Respondents
Through Mr. Gautam Narayan, ASC with Mr.
R.A. Iyer and Ms. Mahamaya
Chatterji, Advs for the respondent
along with Mr. S.K. Maan and Mr. J
Tal, from Forest Department.

CORAM:
HON'BLE MS. JUSTICE INDERMEET KAUR

ORDER

% **25.07.2017**

C.M.No.26187/2017 (Exemption)

Exemption is allowed subject to all just exceptions.

Application disposed of.

W.P.(C) 6324/2017 & C.M.No.26186/2017

The petitioner is aggrieved by a show cause notice dated 13.07.2017 as also another notice dated 17.07.2017 issued by respondent No.3. In terms of these two notices, the petitioner has been directed to vacate his house; these notices premised on the contention that the petitioner is in occupation of a house located in khasra No.487, Nebsarai Village, D-21, Indira Enclave. Submission

of the learned senior counsel for the petitioner is that this is incorrect submission. He has drawn attention of this Court to a demarcation report dated 28.01.2005 (page 41 of the paper book) wherein the Kanoongo had returned a fact finding that the house of the petitioner is located in khasra No. 484.

On this count, learned counsel for the respondents (appearing on advance notice) submits that pursuant to certain directions of the National Green Tribunal, a fresh demarcation had been carried out and this demarcation report dated 06.07.2016 along with map attached (page 86 of the paper book) clearly shows that the house of the petitioner falls within the forest land and the notices issued to the petitioner are in fact premised on this demarcation report.

Learned senior counsel for the petitioner points out that this demarcation report would not be binding upon the petitioner as admittedly no notice of this demarcation was given to the petitioner; no adverse action can be carried out against the petitioner without his presence having been recorded when the aforementioned demarcation was carried out. Even otherwise, the earlier demarcation report dated 28.01.2005 has become final; it cannot now be reagitated.

Be that as it may, noting the additional submission of the learned counsel for the respondents that the notices issued by respondent No.3 premised on a demarcation report dated 06.07.2016, it would be appropriate for the petitioner to challenge this report before the Revenue Authority as this Court being a writ court cannot go into factual averments and counter averments. This Court endorses this view of the learned counsel for the respondents. The

petitioner is accordingly advised to challenge the demarcation report dated 06.07.2016 before the Revenue Authority. He may file an appeal against the demarcation report dated 06.07.2016 within a period of two weeks and the Competent Authority who will dispose of that appeal within a time span of not later than three months. Till that time, the petitioner shall remain protected. The DC shall note the averments of the petitioner (highlighted by the learned senior counsel for the petitioner) that the demarcation report dated 06.07.2016 cannot bind him as he was not a party to this demarcation.

Status quo of the property shall be maintained by the parties.

No further orders are called for in this petition. It is disposed of.

INDERMEET KAUR, J

JULY 25, 2017

A