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

+ **W.P.(C) 6527/2017**

RAAJ MUTTREJA

..... Petitioner

Through Ms Sarika Singh, Advocate.

versus

SUB DIVISIONAL MAGISTRATE (KALKAJI)
& ANR.

..... Respondents

Through Dr Vikrant Narayan Vasudeva, Advocate
for R1.

Mr Sanjeev Sabharwal, Advocate Standing
Counsel for DDA with Mr Hem Kumar &
Ms ridhi Suman, Advocates.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

ORDER

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31.07.2017

CM No. 27053/2017

1. Allowed, subject to all just exceptions.
2. The application is disposed of.

W.P.(C) 6527/2017 & CM 27052/2017 (stay)

3. The petitioner has filed the present petition impugning an order dated 18.07.2017 passed by the SDM, Kalkaji cancelling the permission granted to the petitioner to fence the land in Khasra no. 542, village Baharpur, Kalkaji, New Delhi. According to the petitioner, the petitioner is the owner of the aforementioned land and, therefore, had approached the SDM for permission to fence the same. This permission was granted. However, subsequently a

complaint was received from the DDA alleging that public lands adjoining DDA parking for Kalkaji Temple are being encroached and pursuant to the said complaint, the permission granted to the petitioner to fence the land in question was cancelled.

4. In a similar matter (***W.P. (C) 6168/2017*** titled ***Pankaj Tandon & Ors. vs SDM (Kalkaji) & Ors.***), this Court had directed the SDM to consider his decision afresh after hearing the petitioner therein as well as the complainant, that is, DDA. The court is of the view that a similar order would be apposite in this case as well. Accordingly, the impugned order is set aside, the petitioner shall submit all relevant documents to the SDM who would, thereafter, hear the petitioner as well as DDA and take an informed decision.

5. In the first instance, the hearing shall be held on 04.08.2017 at 12.00 noon in the office of the SDM (Kalkaji). The DDA is also required to depute a representative with all relevant records to substantiate its allegations/claim that the land fenced by the petitioner is a public land. The SDM is directed to consider the same and pass an appropriate order within a period of four weeks. In the meanwhile, status quo shall be maintained in respect of the land in question. It is stated that demarcation by Total Station Method (TSM) has already been drawn up. The DDA shall specifically mark the area on the said map, which they claim is being encroached.

6. Counsel for the petitioner has further made a grievance that the fencing done by the petitioner has been forcibly removed. She seeks to reserve the right of the petitioner to take appropriate remedies in that regard including for seeking compensation. All rights and contentions of the petitioner are kept open.

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

VIBHU BAKHRU, J

JULY 31, 2017
pkv