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

+ W.P.(C) 7001/2017

INDERJIT SINGH & ORS ..... Petitioners  
Through: Mt Swastik Singh, Advocate.

versus

GOVT. OF NCT OF DELHI ..... Respondent  
Through: Shadau Ferasat, Advocate.

**CORAM:**

**HON'BLE MR. JUSTICE VIBHU BAKHRU**

**ORDER**

% **17.08.2017**

**CM No.29081/2017**

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

**W.P.(C) 7001/2017 & CM No. 29080/2017**

3. The petitioners have filed the present petition, *inter alia*, impugning a notice dated 27.07.2017 passed by the respondent for demolition of the alleged encroachment in Khasra No. 583 (0-5), Village Nasirpur, Palam, New Delhi.

4. Mr Singh, the learned counsel for the petitioners states that the petitioners have not been issued any show cause notice for removal prior to the passing of the order for demolition. Mr Ferasat, the learned counsel appearing for the respondent submits that the petitioners had filed a suit against certain other private individuals captioned as '*Inderjit & Ors. v. Pradeep Kumar & Ors*' which was numbered as CS (OS) No. 1992/2012. In

that suit, the petitioners (who were plaintiffs therein) had claimed that they were the legal heirs of the erstwhile owners of the suit property being Khasra No. 583 (0-5) situated at Village Nasirpur, Palam, New Delhi. The defendants in the said suit had taken a plea that the land in question was gram sabha land and the petitioners had encroached upon the said land.

5. In the aforesaid context, this Court had passed an order dated 23.09.2015 directing SDM Najafgarh to look into the matter and file a report as to whether the land in question had been encroached upon by the petitioners. Thereafter, the said suit was transferred to the Court of learned Additional District Judge, Dwarka. Pursuant to the said orders passed by this Court on 23.09.2013 in CS(OS) 1992/2012, the respondent had conducted an exercise for demarcation of the land in question and had found that the same was encroached upon. Due notice of the demarcation proceedings were served on the petitioners. It is, thus, apparent that the petitioners had full notice of the proceedings and had taken no steps to challenge the said demarcation report by any independent proceedings (although the same is sought to be disputed in the proceedings relating to the aforementioned suit). The petitioners have also not impleaded the respondent in the said suit (CS(OS) 1992/2012 now re-numbered as CS No. 15738/2016).

6. This Court is of the view that notwithstanding that the petitioners had filed a suit claiming rights over the property in question, the respondent not being a party to the said suit is not precluded from independently taking an action for demolition of the property and removal of encroachment.

7. Insofar as the petitioners' contention that they be heard before any such action is taken is concerned, the same is merited. The petitioners are hereby given an opportunity to file a representation before the respondent within a period of one week from today. If such representation is filed, the same would be considered by the respondent within a period of one week thereafter and further action for demolition or removal of encroachment would be subject to the outcome of the said decision.

8. It is clarified that this is without prejudice to any other proceedings that the parties may wish to initiate.

9. The petition and the application are disposed of with the aforesaid observations.

10. Order *dasti*.

**VIBHU BAKHRU, J**

**AUGUST 17, 2017**  
**RK**