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

+ LPA 561/2015

NOOR AHMAD KHAN & ANR. Appellants

Through None.

versus

GOVT. OF NCT OF DELHI THR PWD & ANR. Respondent

Through Mr. Anuj Aggarwal with Ms. Niti Jain,
Advocates for respondent No.1.
Mr. S.C. Singhal, Advocate for
respondent No.2.

CORAM:

HON'BLE MR. JUSTICE S. RAVINDRA BHAT

HON'BLE MR. JUSTICE SANJEEV SACHDEVA

ORDER

% **26.10.2017**

LPA 561/2015 & CM No.16644/2015

1. The appellants' grievance is that the learned Single Judge, even while disposing of the writ petition of the second respondent, rendered a finding with respect to the encroachment of lands. The appellants claim some rights and entitlements to occupy the lands.

2. The learned Single Judge noticed that a status report had been given on 17.08.2015 and granted liberty to the appellants to take appropriate action to establish that they have a lawful title in respect of the portion that they occupied; despite this, the direction to take action against any encroachment was given.

3. During the course of hearing, it transpired that the status report was based upon spot measurement, undertaken by the PWD on 04.08.2015.

4. In an application filed on behalf of the PWD, it is now disclosed that in a previous demarcation report, conducted on 12.06.2006, it was concluded that

there was no encroachment. Apparently, that demarcation report was set aside by the ADM (West) on 16.02.2016, who also directed fresh demarcation. The fresh demarcation exercise has not yet been completed.

5. In these circumstances, the Court is of the opinion that there should be a fresh exercise of demarcation with respect to the lands that are the subject matter of the present appeal, i.e, adjoining property WZ-2, Part-III (W2-2/3), Mansrover Garden, New Delhi, within eight weeks. The matter is, therefore, required to be considered afresh in the light of the demarcation report.

6. The impugned order dated 18.08.2015 is set aside; the case is remitted for fresh consideration by the learned Single Judge. The Court also, hereby, directs the concerned ADM (West) to ensure that an appropriate official conducts the demarcation exercise as is normally done in such cases – by use of the TSM (Total Station Method) or some other acceptable procedure, in accordance with law, after issuing notice to the concerned parties. The report of the demarcation shall be made available to the concerned parties including the appellant.

7. The appeal is partly allowed to the above extent.

8. Order *Dasti* under the signatures of the Court Master.

S. RAVINDRA BHAT, J

SANJEEV SACHDEVA, J

OCTOBER 26, 2017/st