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IN THE HIGH COURT OF DELHI AT NEW DELHI

Decided on: 15th November, 2017

+ CM(M) 1247/2017 & CM No.39576/2017(stay) & CM
No.39577/2017(exemption)

HABIB UR REHMAN

..... Petitioner

Through: Mr. Satish Sahai, Mr. Amique
Khalid, Mr. Abhishek Kumar &
Ms. Shruti Rathore, Advs.

versus

UNION OF INIDA & ORS

.....Respondents

Through: Mr. Rakesh Kumar & Mr.
Santosh Prasad Chaurasiya,
Advs. for UOI with Dr. S.K.
Singh, Asst. Director (H),
CPWD.

Ms. Arti Bansal, Adv. for R6.

Mr. Manika Tripathy Pandey &
Mr. Ashutosh Kaushik, Advs.
for R7&8 with Inspector Inder
Lal & A.S.I. Vijay Singh.

Mr. Vivek B. Saharya, Adv. for
R-9.

CORAM:

HON'BLE MR. JUSTICE R.K.GAUBA

JUDGMENT (ORAL)

1. The petition at hand invokes Article 227 of the Constitution of India to bring a challenge to the order dated 03.08.2017 passed by

the Senior Civil Judge (South) at Saket Courts, New Delhi in the course of proceedings arising out of the civil suit, presently registered as CS no. SCJ 82862/16, which was originally instituted by the petitioner on 06.11.1989, whereby the application under Order I Rule 10 of the Civil Procedure Code, 1908 (CPC) of the tenth respondent, Central Reserve Police Force (CRPF) was allowed and it was impleaded as tenth defendant.

2. It may be noted at the outset that the civil suit, which has been pending since 1989, concerns a plot of land described by the petitioner (plaintiff) as Lal Masjid Qabristan in Khasra no. 389, 360 and 361 within revenue record of the village, Aliganj, Lala Lajpatrai Marg, New Delhi, the prayer in the civil suit being for a decree for permanent injunction against interference in the peaceful possession and enjoyment thereof or from committing trespass into it or against putting any *malba* into it or causing any damage and demolition to the graveyard and the property or leveling any portion by the parties in the case arrayed as defendants.
3. The array of defendants in the suit, as originally presented by the petitioner, included Union Of India through its Secretary in the Ministry of Home Affairs (first defendant); Delhi Administration through its Chief Secretary now Government of NCT of Delhi (second defendant); Central Public Works Department (CPWD) through its Chief Engineer (third defendant); Land and Development Officer (fourth defendant); Delhi Development Authority (fifth defendant); Municipal Corporation of Delhi (sixth defendant); the Commissioner of Police New Delhi (seventh

defendant); Station House Officer of Police Station Lodhi Colony (eighth defendant); and New Delhi Municipal Committee (ninth defendant). It may also be noted here that the defendants, particularly the Union of India in the course of contest, have taken the position that suit property is government land and that the plaintiff is an unauthorized and illegal occupier of the same.

4. It is stated that the Land and Development Officer of Government of India (fourth defendant in the suit) had originally earmarked the land in question to CPWD (third defendant) but, by letter dated 28.02.2017, it has allotted land admeasuring 2.23 acres, to CRPF for construction of its office accommodation, shifting of Canteen, barracks for men and parking of vehicles etc.
5. It is against the aforesaid backdrop that the application under Order I Rule 10 of Code of Civil Procedure, 1908(CPC) was moved before the Senior Civil Judge on 29.04.2017 by the Senior Central Government Counsel seeking impleadment of CRPF (to be represented through its Director General) as one of the defendants. The application was contested by the petitioner/plaintiff, as noticed in the order, by pleadings to the effect that such impleadment was not necessary *inter alia* because it was in breach of the doctrine of *lis-pendens* under Section 52 of the Transfer of Property Act, 1882 and that such move is belated and would delay the trial. The Trial Judge has found such objections to be devoid of substance and found it appropriate to implead CRPF as an additional defendant.
6. The petition is pressed to challenge the above mentioned order on the same very contentions as were urged before the learned trial

judge. Reliance is placed on decisions of learned single judges of this court in *Sanjay Gupta Vs. Smt. Kala Wati* 85 (2000) DLT 828, *Prakash Khattar Vs. Shanta Jindal & Ors.* 181 (2011) DLT 138 and *Bhim Singh Vs. Amar Nath & Ors.* 149 (2008) DLT 34 to submit that the allotment in favour of the CRPF was in breach of the doctrine of *lis-pendens* as per Section 52 of the Transfer of Property Act, 1882. It is also argued that the impleadment of a party against the stand taken by the plaintiff is permitted only if there is a legal right vesting in such additional party making him a necessary party within the meaning of the provision contained in Order I Rule 10 CPC.

7. Having heard the learned counsel for the petitioner and learned counsel representing the respondents, this Court finds no merit in the petition. The view taken by the learned trial judge in the impugned order does not call for any interference. The validity of allotment in favour of CRPF cannot be questioned or determined without the party in question (the allottee) being arrayed as defendant. By such allotment, CRPF claims to have acquired a vested interest. In these circumstances, it is not merely a proper party, but a necessary party to the proceedings.
8. The petition is, therefore, dismissed.

R.K.GAUBA, J.

NOVEMBER 15, 2017/umang