

\$~18

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

+ W.P.(C) 389/2018

MADAN LAL ARORA

..... Petitioner

Through: Mr A. K. Padhy, Advocate.

versus

STATE (GOVT OF NCT OF DELHI) & ANR Respondents

Through: Ms Shobhana Takiar, Addl. Standing
Counsel with Mr Udayan
Khandelwal, Advocate alongwith SI
Samrat Khatiyani, PS Harsh Vihar.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

ORDER

%

16.01.2018

1. The petitioner has filed the present petition, *inter alia*, praying as under:-

- “a) Issue necessary and specific directions in nature of mandamus to the respondents for not interfering in any manner in the construction of the boundary wall and the main gate in the said property of petitioner.
- b) Initiate necessary judicial action against the erring police officials and officers.”

2. The petitioner alleges that the police authorities have been interfering and not permitting the petitioner to build a boundary wall on the property bearing no. C-336, admeasuring 290 sq. yards, outer Khasra no.11, situated at Village Saboli, Pratap Nagar, Ilaka Shahdara, Delhi - 93 (hereafter ‘the property’).

3. It is pointed out that the petitioner has also filed a writ petition agitating the same grievance - W.P.(Crl.) 3134/2017 - which was disposed of by a Coordinate Bench of this Court by an order dated 10.11.2017 directing the Deputy Commissioner of Police of the area to look into the matter and take action as per the law.

4. Ms Takiar, the learned counsel appearing for respondent nos.1 to 2 has handed over a status report, which indicates that an inquiry was initiated with regard to the title and possession of the property in question. A complaint had been made by the petitioner alleging that one Satyender Pratap S/o Sohan Singh and his associates had hatched a conspiracy and had broken the lock of the property in question and had trespassed on the property and had stolen the articles kept by the petitioner in his room. The petitioner had further alleged that they had started illegal construction to grab the property.

5. The status report indicates that on further inquiry conducted by the police authorities, it was found that there were three sets of persons claiming ownership of the property and none of them including the petitioner had produced the original title deeds or documents on the basis of which they claimed to be owners of the property. The status report reveals that in the circumstances, the case filed has been referred to the DIU for further investigation, which is currently underway.

6. In the said circumstances, this Court finds no infirmity with the action of the respondents in preventing any further construction on the said property, as the question as to the title of the said property is under investigation.

7. The learned counsel appearing for the petitioner has earnestly contended that the police authorities could not decide the issue as to the title of the property. He further pointed out that a suit had been filed by one Mr Karam Veer against the petitioner for illegally dispossessing him from the property in question and the said suit was dismissed. He submits that in the circumstances, the title of the petitioner cannot be questioned. The aforesaid contention is unmerited, as the decision of the court in the suit referred to by the petitioner (CS No.468/2012 captioned '*Karan Veer v. Madan Lal Arora*') would only bind the parties in that suit.

8. It is noticed from the photographs filed along with the petition that the plot in question is largely vacant and there is only a small construction at one end of the property. The petitioner claims to be in possession of the property. The petitioner has also produced a electricity bill in the name of the petitioner. However, the investigations have not established that the petitioner was in possession of the said premises, and hence, there appears to be a serious dispute as to the title and the possession of the property.

9. In view of the above, the prayers as sought for cannot be granted. However, the petitioner is not precluded from instituting appropriate proceedings to establish his title over the property in accordance with law.

10. The petition is dismissed.

VIBHU BAKHRU, J

JANUARY 16, 2018
MK