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IN THE HIGH COURT OF DELHI AT NEW DELHI

Judgment pronounced on: 26.2.2018

W.P.(C) 1770/2018, C.M. APPL..7353-7354/2018

SHIYA KHANNA

..... Petitioner

Through: Mr. Sonal Anand with Mr. Ayush Sai, Advocates.

versus

STATE NCT OF DELHI & ORS

..... Respondents

Through: Mr. Gautam Narayan, ASC, GNCTD with Ms. Mahamaya Chatterjee, Advocate.

CORAM:-

HON'BLE MR. JUSTICE RAJIV SHAKDHER

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RAJIV SHAKDHER, J. (ORAL)

CM APPL.7353/2018 (exemption)

1. Allowed, subject to all just exceptions.

W.P. (C) 1770/2018, CM APPL.7354/2018

2. Issue notice. Mr. Gautam Narayan, accepts notice on behalf of the respondents. In view of the order that I propose to pass, learned counsel says no counter affidavit is required.

3. The petitioner assails the notice dated 13.2.2018 on the ground that no notice was given to her before issuing the impugned notice. Via the impugned notice, the respondents had called upon the petitioner to vacate 26 feet of the notified forest area which falls in khasra No.651 in Neb Sarai village.

3.1 The petitioner's case is that the subject property in its entirety falls in khasra no.512.

4. Mr. Gautam Narayan, on the other hand, says that while a large portion of the subject property falls in khasra no.512, a part of the said property, that is, about 26 feet falls in the forest area as is adverted to in the impugned notice.

4.1 Furthermore, Mr. Narayan says that the proceedings for removal of unauthorised occupants from the notified forest area gathered the momentum pursuant to the judgment of the Division Bench dated 24.1.2018, passed in FAO (OS) 200/2017, titled : *Prabhat Kumar Sharma & Anr. v. GNCTD & Anr.*

4.2 In this context, Mr. Narayan draws my attention to paragraph 57 of the Division Bench judgment to demonstrate that demarcation report dated 7.6.2017 was taken into consideration by the Court.

4.3 Furthermore, Mr. Narayan also draws my attention to paragraph 16 of the very same judgment wherein there is a

reference to the five applications moved by the petitioner herein.

4.4 It is, therefore, Mr. Narayan's submission that the petitioner was aware of the demarcation report dated 7.6.2017, contrary to the stand taken in the writ petition. The petitioner's counsel, on the other hand, takes the stand that the copy of the demarcation report was not served on him or the petitioner.

5. Be that as it may, two things are clear. First, that the exercise of demarcating the forest area has already been done and second, that the Division Bench has directed clearance of the the notified forest area of all illegal occupants. The only issue which was for consideration in this writ petition is: whether the petitioner occupies 26 feet of the notified forest area as is indicated in the impugned notice?

6. In these circumstances, this writ petition is disposed of with the direction to the Deputy Commissioner (Revenue)/ respondent no.2 to hear the petitioner and examine the material put forth by her, and thereafter, pass an order as to whether the contested area which is the subject matter of the impugned notice dated 13.2.2018 falls within the confines of the notified forest area.

6.1 In order to facilitate this exercise and to remove any lingering doubts as to whether the petitioner was served with the copy of the demarcation report, Mr. Narayan has furnished a

fresh copy of the demarcation report to the counsel for the petitioner.

6.2 Furthermore, to expedite the proceedings, the petitioner will appear before the Deputy Commissioner (Revenue)/respondent no.2 on 6.3.2018 at 11:00AM. The Deputy Commissioner (Revenue)/respondent no.2 will hear the petitioner, as indicated above, and examine the materials placed before him. In case the petitioner is aggrieved by the determination made by the Deputy Commissioner (Revenue)/respondent no.2, he will take recourse to an appropriate remedy, albeit, in accordance with law, as provided in the governing statute. Pending this determination, the impugned notice *qua* the petitioner will not be given effect to.

6.3 Since, the Division Bench has sought compliance from the respondents and the matter is listed before the said Bench on 20.3.2018 for reporting compliance, this exercise will be completed by the Deputy Commissioner (Revenue)/respondent no.2 by 12.3.2018.

7. The writ petition is disposed of in the above terms.

RAJIV SHAKDHER, J

FEBRUARY 26, 2018

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