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

+ W.P.(C) 7301/2018

NAVINDRA MEHTA AND ORS

..... Petitioners

Through: Mr Gaurav Sarin, Ms Supriya Juneja
and Mr Bharat Monga, Advocates.

versus

GOVERNMENT OF NCT OF DELHI AND
ANR

..... Respondents

Through: Mr Santosh Kr. Tripathi, ASC,
GNCTD, Advocate for R-1 & R-2.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

ORDER
17.07.2018

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CM No.27872/2018

1. Allowed, subject to all just exceptions.

W.P.(C) 7301/2018 & CM No. 27871/2018

2. The petitioner has filed the present petition, *inter alia*, impugning a Survey Report dated 02.07.2018 conducted by M/s N. K. Engineers to the extent that it describes the petitioners as 'encroachers'. It is the petitioners' case that they are not encroachers and are in occupation of their own property, although, the said property falls within the 210 feet Right of Way (ROW).

3. Mr Sarin, learned counsel appearing for the petitioner drew the attention of this Court to an judgment dated 21.07.2010 in W.P.(C)

1140/1999 titled ***R. K. Bansal & Ors. v. GNCTD & Ors.*** He submits that the petitioners were parties to the said petition and the Court, after considering the similar allegations, had found that the petitioners were not encroachers on any public land and were in occupation of the land purchased by them. The said judgment was rendered on the basis of a Survey Report dated 23.05.2009.

4. The learned counsel appearing for the respondents states that an association (Rajouri Garden Marble Market Association), of which the petitioners are members, have already filed a representation before the Sub-Divisional Officer/Sub-Divisional Magistrate (Patel Nagar), which is pending consideration. He states that the concerned officer shall consider the representation as well as the averments made in the present petition and pass appropriate orders.

5. In view of the above, this Court considers it apposite to dispose of this petition by directing the concerned Officer to consider the representation preferred by the Rajouri Garden Marble Market Association as well as consider the averments made in the present petition and pass a speaking order. The Concerned Officer shall afford the petitioners an opportunity to be heard and shall also consider the judgment passed by this Court in ***R K Bansal*** (*supra*) as well as the Survey Report dated 23.05.2009.

6. It is further directed that no demolition action shall be taken in respect of the properties of the petitioners for a period of one week after the concerned Officer (SDM) has passed and communicated the order as directed above.

7. The petition is disposed of with the aforesaid directions. The pending application also stands disposed of.
8. Order *dasti* under signatures of the Court Master.

VIBHU BAKHRU, J

JULY 17, 2018
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