

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

Date of Order: September 10, 2018

+ **W.P.(C) 7695/2014**

RAGHUBIR SINGH

.....Petitioner

Through: Mr.V.K. Garg, Senior Advocate
with Mr. B.S.Mathur, Ms. Noopur Dubey and
Mr. Rajat Mathur, Advocates

versus

GOVT OF NCT OF DELHI & ORS.

.....Respondents

Through: Mr. Santosh Kumar Tripathi, ASC
with Mr. Shashank Tiwari, Advocate

CORAM:

HON'BLE MR. JUSTICE SUNIL GAUR

ORDER
(ORAL)

1. Petitioner claiming to be owner in possession of plot/khasra No. 573/1 mentioning 650 square yards situated in abadi area of village Karala, Delhi-110081 seeks police protection to facilitate on-going construction on the subject land and to prevent any interference in raising of the construction of the subject land. Reliance is placed upon revenue record i.e. Khatoni of the year 2003 obtained by petitioner under RTI, to stake ownership on the subject land.
2. In the counter affidavit filed by the respondent-SDM, the averments made in respect of aforesaid revenue record are not disputed. However, it is asserted in the said counter that the order passed by Consolidation Officer is not available on record. However, it is further

submitted in the counter that after consolidation proceedings, the entries in respect of subject land were made and incorporated in the revenue record. In the counter affidavit filed by respondent-SDM, the stand taken is that a police complaint was received regarding ongoing construction on the subject land and so, the parties were directed to maintain *status quo* and any dispute regarding title can be resolved in the Civil Court.

3. On behalf of respondents No. 2 to 4, the concerned Deputy Commissioner of Police has filed a counter affidavit, wherein there is a reference to judgment of 23rd July, 2014 of the Civil Court and it is asserted in this counter that petitioner has no right over the land in question, as the suit was decided in favour of Harijan community vide aforesaid judgment of 23rd July, 2014. In the counter filed by respondents No. 2 to 4, it is disclosed that on 16th May, 2014, the PCR call regarding illegal construction was received by PS Kanjhawala and on enquiry, the complainant had disclosed that there was a stay over the subject land and so, petitioner had no right to carry out the construction on the subject land. It is a matter of record that the said complaint was subjected to enquiry and as per Enquiry Report of 29th May, 2014 there was no stay on the subject land and no trespass was found on the said property, as alleged by the complainant. As per the Enquiry Report, complainant was given notice to join enquiry and to produce the requisite documents but he had not joined the enquiry.

4. The conclusion in the Enquiry Report of 29th May, 2014 reads as under:-

“After all enquiries, it reveals that there is no stay over the property bearing Khasra No. 573/1. No trespass

was found over the said property as alleged by the complainant. The complainant made false complaint no cognizable offence is made out. Hence the complaint may be filed please.”

5. It is asserted by petitioner's counsel that the Civil Court's judgment of 23rd July, 2014 does not bind petitioner, as he was not a party to the aforesaid proceedings. The precise stand of petitioner's counsel is that in view of the Enquiry Report of 29th May, 2014, the *status quo* order ceased to operate and infact, the local police should ensure that the construction of the subject land is completed unhindered.

6. On the contrary, learned standing counsel for respondents maintain that since there is a civil dispute therefore, the parties ought to be relegated to the civil Court, as this dispute cannot be resolved in writ proceedings.

7. Upon hearing and on perusal of pleadings of the parties and the material on record, I find that the Record of Rights i.e. Khatoni in question reveals that petitioner is the recorded owner of the subject land. Relevantly, petitioner was not party to the civil proceedings. A mere perusal of the counter affidavit filed on behalf of respondents No. 2 to 4 reveals that the *status quo* order issued by the local police proceeds on the basis of Civil Court's judgment of 23rd July, 2014 being in favour of the Harijan community. Copy of the aforesaid judgment is on record and it reveals that the suit filed has been dismissed.

8. As per Enquiry Report of 29th May, 2014 on record, the version of complainant regarding stay in respect of the subject land is found to be factually incorrect. It is concluded in the aforesaid Enquiry Report that

there is no stay in respect of the subject property and it has not been trespassed. It is clearly recorded in this Report that the complaint filed is false.

9. In view of the aforesaid, there is no justification whatsoever to continue with the *status quo* as directed by the local police. It is the duty of police to ensure that effective protection is given to the rightful owner to raise construction on the subject land. As per the revenue record referred to above, petitioner is undoubtedly the owner of the subject land. In the face of Enquiry Report of 29th May, 2014, it cannot be said that any civil dispute exists.

10. Consequentially, this petition is disposed of with direction that *status quo* in respect of the subject land need not be maintained. Petitioner is free to raise construction over the subject land as per the applicable rules and regulations. Local police is directed to ensure that no hindrance is caused, once petitioner resumes construction over the subject land.

11. With the aforesaid directions, this petition is accordingly disposed of.

(SUNIL GAUR)
JUDGE

SEPTEMBER 10, 2018

v