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

+ W.P.(C) 9823/2018

SH. KHEMI AND ORS. Petitioners

Through: Mr Inder Bir Singh, Advocate.

versus

GOVERNMENT OF NCT OF DELHI, THROUGH ITS
CHIEF SECRETARY AND ORS. Respondents

Through: Mr Anupam Srivastava, ASC for
GNCTD with Ms Divya Joshi,
Advocate.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

ORDER

% **18.09.2018**

CM No.38263/2018

1. Allowed, subject to all just exceptions.

W.P.(C) 9823/2018 & CM No.38262/2018

2. The petitioners have filed the present petition, *inter alia*, praying that respondents be restrained from demolishing the “ancient Hindu Temple/Mandir, namely, BABA MOHAN RAM KI KHOLI PRACHEEN MANDIR”. The petitioners states that the said temple was built in the year 1965 by the father of petitioner no.1 and grandfather of petitioner nos.2 to 4. It is stated that the petitioners have been looking after the day-to-day affairs of the said temple since then. The petitioners have approached this Court as they now apprehend that the forest department would demolish the said

temple.

3. The said property is located near village Jonapur. The petitioners claim that uncultivated surplus land in the village Jonapur besides the other villages as notified in the notification dated 02.04.1996, was acquired by the respondents but the temple in question (which is stated to be spread over area of two acres) was not acquired as it was built up. The learned counsel appearing for the petitioners submit that since only cultivated surplus land as vested with the forest department the temple in question did not vest with the forest department.

4. Undisputedly, the temple/structure in question is situated amongst forest lands. This Court had pointedly asked the learned counsel appearing for the petitioners as to what right did they have occupy the land in question. His response was that the land was *gaon sabha* land and the petitioners could be evicted by following due process.

5. Concededly, the petitioners have no right to the land/property in question.

6. It is also clear from the averments made in the said petition that the temple/structure was constructed by encroachment. The assertion that the structure is an ancient temple is also inconsistent with the averments in the petition to the effect that the same was built in 1965.

7. In this view, this Court finds no reason to interdict the forest department for recovering the said land or demolishing any structure thereon. It is now well settled that encroachments on forest land are not to be

protected.

8. The petition is, accordingly, dismissed. The pending application is also disposed of.

VIBHU BAKHRU, J

SEPTEMBER 18, 2018
MK