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

Date of Decision: 03rd October, 2018

+ LPA 560/2018 & CM APPLs. 40874-75/2018

KHEMI & ORS.

..... Appellants

Through: Mr. Inder Bir Singh with
Mr. Jappanpreet Hora, Advs.

versus

GOVT. OF NCT OF DELHI & ORS.

..... Respondents

Through: Mr. Anupam Srivastava, ASC with
Ms. Niharika, Adv. for GNCTD.

CORAM:

HON'BLE THE CHIEF JUSTICE

HON'BLE MR. JUSTICE V. KAMESWAR RAO

J U D G M E N T

RAJENDRA MENON, CHIEF JUSTICE (Oral)

CM No.40875/2018 (exemption)

Allowed, subject to just exceptions.

LPA No.560/2018 & CM No.40874/2018 (stay)

1. Seeking exception to an order dated 18.09.2018 passed by the learned writ court in W.P.(C) No. 9823/2018, this appeal has been filed under Clause 10 of the Letters Patent.
2. The respondents had taken steps for demolition of a temple said to have been constructed in the area in question. Finding the temple to be

constructed in an unauthorized manner on Government land without any authority of law, the demolition has been upheld by the writ court. Before us, it was canvassed that the learned writ court failed to consider the fact that what was prohibited under the Forest Department's notification dated 02.04.1996 was that the area placed under the Forest Department by this notification was uncultivated surplus land. The land in question having not been placed in favour of the Forest Department, it is argued that the learned writ court committed grave error in dismissing the writ petition.

3. According to the appellant, the land belongs to the Gram Sabha and therefore the appellants could not be evicted. However, the fact remains that the appellants have not been allotted the land. There is nothing available on record to indicate that the appellants were even authorized or permitted by the Gram Sabha to construct the temple in question and, if taking note of all these factors, treating the appellants to be encroachers the structure is being removed, we see no reason to make any indulgence into the matter. The appeal stands dismissed. The pending application also stands disposed of accordingly.

CHIEF JUSTICE

V. KAMESWAR RAO, J

OCTOBER 03, 2018

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