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

+ LPA 575/2018 & CM. Nos. 42105/2018 and 42106/2018

RADHA SOAMI SATSANG BEAS

..... Appellant

Through: Mr. Sanjay Jain, Sr. Adv. with
Mr. Pramod Kr. Ahuja, Mr. Davinder
Varma, Mr. H.S. Sharma and
Mr. Yuvraj Sharma, Advs.

versus

GOVT OF NCT OF DELHI & ORS

..... Respondents

Through: Mr. Naushad Ahmad Khan, ASC /
GNCTD.

CORAM:

HON'BLE THE CHIEF JUSTICE

HON'BLE MR. JUSTICE V. KAMESWAR RAO

ORDER

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09.10.2018

CM. No. 42106/2018

Exemption allowed subject to all just exceptions.

Application stands disposed of.

LPA 575/2018 & CM. No. 42105/2018

1. Having heard the learned counsel for the parties, we find that the issue in question is as to whether the land where the appellant Society is said to be occupants belongs to the Forest, Gram Sabha or privately owned by the appellant Society. The question of demarcation and issues with regard to ownership of the land has to be determined and this exercise cannot be

undertaken by the National Green Tribunal. The National Green Tribunal acquires jurisdiction only if it is undisputed that the land in question is a forest land and removal of encroachment from the forest land is sought. In case where there is a dispute that the land in question is a forest land or not and the so-called encroachment is in forest land or in other land, the said question cannot be considered by National Green Tribunal.

2. We are of the considered view that merely because the encroachment is purportedly being removed, in view of some order passed by the National Green Tribunal, the appellant Society has a remedy before the National Green Tribunal, is not proper. The learned Writ Court should have first determined the question as to whether the demarcation has been properly done, which is the area where the appellant Society is occupying the land, whether it is a forest land or other land and thereafter pass an appropriate order. All this has not been done. In view thereof, we are of the considered view that the learned Writ Court was not correct in dismissing the writ petition by holding that the jurisdiction vest with the National Green Tribunal. We accordingly allow the appeal and remand the matter back to the learned Writ Court for proceeding in accordance with law.

3. We are informed that identical matters are coming up for

consideration before the learned Single Bench tomorrow i.e 10th October, 2018. Registry is directed to list W.P.(C) No. 9015/2018 before the appropriate Single Bench on 10th October, 2018. Appal stands disposed of, accordingly.

Dasti under the signatures of Court Master.

CM. No. 42105/2018

Dismissed as infructuous.

CHIEF JUSTICE

V. KAMESWAR RAO, J

OCTOBER 09, 2018/jg