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

Date of Decision:-16.03.2018.

\+ W.P.(C) 7676/2015

PUJA BUILDWELL PVT LTD ..... Petitioner

Through: Mr.Aman Nandrajog, Adv.

versus

UNION OF INDIA & ORS ..... Respondents

Through: Ms.Suparna Srivastava with Ms.Sanjna Dua, Advs. for R-1. Mr.Satyakam, ASC for GNCTD.

CORAM:
HON'BLE MS. JUSTICE REKHA PALLI

REKHA PALLI, J (ORAL)

1. Vide the present petition, the petitioner has prayed for a direction to the respondents to restore the possession of his land, which according to the petitioner, has been taken by the respondents unauthorisedly in violating the demarcation already carried out in the year 2004 vide which the land owned by the petitioner was demarcated.

2. In support of his plea learned counsel for the petitioner relies on a demarcation report dated 25.10.2004, vide which a demarcation has been carried out in the presence of all the parties. As per the said demarcation report, 12 bighas land owned by Shri Ram Singh Sehrawat (the predecessor in interest of the petitioner) was found to be in Khasra Nos.1729(5-12), 1730(3-14), 1731(2-14), 1732(3-4) and 1733(3-7) (18-11). The said report also clearly states that land measuring 6 bighas in Khasra Nos.1724(15/6) which belonged to the Forest

Department, was actually situated inside the boundary of the property of Shri Ram Singh Sehrawat.

3. Mr.Nadrajog submits that the aforesaid 6 bighas belonging to the Forest Department was also duly identified at the time of demarcation carried out on 25.10.2014. He draws my attention to the Demarcation Report dated 25.10.2004, relevant extract whereof reads as under:-

"In the presence of the above stated persons, identification proceedings of Khasra No. 1724-1728-1729-1730-1731-1732-1733 has been carried out as per the record and site. After completing the identification proceedings, actual position is as under:-

S. No.	*Khasra No. and Area*	*Name of the owner*	*Remarks*
1.	*1724 (59-6)*	*Forest Department*	*1. About (6-0) is lying situated inside the boundary of Shri Ram Singh Sehrawat* *Note- Stay order dated 13.08.2004 passed by the Hon'ble High Court in CWP No.13422/2004.* *2. Radha Krishan Mandir lying constructed in the area measuring about (3-0).* *3. Remaining 50-6 under the boundary of Forest Department,*

			passage and vacant land.
2.	*1728 (131-16)*	*Forest Department*	*Lying vacant at the site.* *Note- Stay order granted by Hon'ble High Court is lying recorded at report no.242 dated 25.09.97 in Khasra Girdawari.*
3	*1729 (5-12* *1730 (3-14)* *1731 (2-14)* *1732 (3-4)* *1733 (3-7)* *(18-11)*	*Private*	*1. Khasra No.1729 min to 1733 min, total area (12-0) is situated inside the boundary of Ram Singh Sehrawat.* *2. 1729 to 1732 min (6-11) belongs to Ustad Hafiz Ali, is lying vacant.*

In the presence of all above stated persons, signs have been got marked after getting satisfied with the Khasra nos. of the site and with the consent of the persons present at the site, signs have been marked at the place where property of Shri Ram Singh Sehrawat measuring (12-0) and remaining (6-0) falls in Khasra no.1724 of Forest Department. Identification of Khasra no. 1470 and 1629 could not be completed as the doors were not open. Rest of the identification has already been complete.

Report is submitted.

4. By placing reliance on order dated 21.04.2006 passed by this Court in W.P.(C) No.13422/2004, the learned counsel for the petitioner submits that the said demarcation report has already attained finality and the respondents could not ignore the said demarcation. He therefore, contends that despite the demarcation having finalised in the year 2004, the respondents have tried to demolish the petitioner's property and take possession of the same land in the Khasras owned by him, earlier owned by his predecessor in interest, Shri. Ram Singh Sehrawat.

5. On the other hand, Mr.Satyakam, learned counsel for the respondent no.2 while opposing the petition, denies that the respondents are trying to demolish any property on the land in Khasras belonging to the petitioner.

6. In support of his contention, learned counsel for the respondents draws my attention to the averments made in Para 3 of the respondent's additional affidavit, wherein it has been categorically stated that the respondents have no interest in the land owned by the petitioner i.e. Khasra Nos.1729 min(2-18), 1730 min(1-17), 1731 min(0-18), 1732 min (3-0) and 1733 min (3-7). At this stage it may be appropriate to reproduce the relevant extract of Para 3 of the respondent's additional affidavit which reads as under:-

> *"The averment made in Para 1 are agreed to the extent that Khasra No. 1729 min (2-18), 1730 Min (1-17), 1731 Min (0-18), 1732 Min (3-0) and 1733 Min (3-7) are not notified Forest Land and the respondent no.2 have not*

interest in these lands bearing the abovementioned Khasras. It is denied the claim that the officials of Respondent no.2 exceeded their jurisdiction and in an unauthorised and illegal manner entered jupon the land of petitioner and demolished the boundary wall on agricultural land belonging to the petitioner without any authority of the law.

The abovemention Khasra Nos. are not notified Forest Land but bound by a Forest land viz. Khasra no. 1728 lies on the west and Khasra no.1724 lies on the East of these Khasras.

Protection of forest land from encroachers and restoration of already encroached Forest land are the duty of the respondent no.2. On detection of encroachment inside Forest land and Wild Life Sanctuary, decisions to retrieve forest land was taken at the Secretary level in the month of April 2014. After completing all ground verification through Total Station Method (TSM) survey on the basis of reference points shown by Revenue staffs, the are of encroached Fores lands in three villages, namely Asola, namely Asola, Maidangarhi, Sahoorpur and Bhatti were identified. On the basis of TSM survey maps, detection of area of encroached forest land was done. The TSM survey maps for Asola showing the boundaries of Khasra no. 1724, 1728, 1677, 1763 etc., is annexed herewith and marked as Annexure I.

After completing the physical identification through TSM survey on the ground, DCF (S) issued notices to illegal occupants of Forest Khasras, namely Khasra nos. 1724, 1728, 1677 and 1763. The notices issued to illegal occupants of these Khasras are annexed herewith and marked as Annexure II. The notices were issued to individuals as well as in leading News paper. The notice issued in New paper is annexed herewith and marked as Annexure III.

Thus unauthorized structures lying inside Khasra no. 1724, 1728, 1763 and 1677 were removed starting from 21.04.2014 onwards. Precautions were taken to identify the boundary of Forest Land and Demolition drive was carried out after giving prior notice to the encroachers. No private lands were taken over. Only encroachments

identified through the abovementioned TSM survey were demolished. During the demolition drive, road passing through Khasra no. 1728 was destroyer for which no private person has a right to claim."

7. Thus, the position which emerges from the record, is that the petitioner is the owner of 12 bighas land situated in Khasra Nos.1729-1733 in village Asola, whereas (6-11) bighas of land in the said khasras belongs to one Ustad Hafiz Ali which was found to be lying vacant at the time of demarcation and only 6 bighas land owned by the Forest Department in Khasra No.1724 which was found to be in the boundary of the petitioner's predecessor. In view of the categoric stand taken by the respondents, that they do not propose to demolish any property constructed by the petitioner on land found to be woned by his predecessor in the aforesaid four Khasra Nos.1729-1733, I find that the present petition is wholly, without any cause of action as the respondents are not trying to interfere with the possession of land owned by the petitioner.

8. However, in case, the respondents seek to tinker with the demarcation already finalised in October, 2004, the petitioner would be at liberty, to challenge any subsequent demarcation, by taking appropriate steps in accordance with law.

9. The petition is disposed of in the above terms.

(REKHA PALLI)
JUDGE

MARCH 16, 2018/gm