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

+ W.P.(C) 10896/2017

OM PRAKASH & ORS.

..... Petitioners

Through: Mr I.S. Dahiya, Advocate.

versus

STATE & ORS.

..... Respondents

Through: Mr Gautam Narayan, ASC for
GNCTD with Ms Mahamaya
Chatterjee, Ms Shivani Vij, Mr
Manish Dua, Advocates alongwith Mr
Harish Kumar, Kanungo, Najafgarh
and Mr Ankit Sharma, DEO,
Najafgarh.
SI Leela Ram, PS Jaffar Pur Kalan.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

ORDER

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15.11.2018

1. The petitioners have filed the present petition seeking demolition of a platform (the *chabutra*) alleged to have been unauthorizedly constructed in front of the house which was occupied by Shri Pyarelal (since deceased) in village Sarangpur. It is their case that the *chabutra* was constructed by encroachment on public land and greatly inconveniences the use of a public road/path. It is further claimed that the same was demolished on 22.11.2007 by the concerned authorities after protracted proceedings that lasted several years and has been recently reconstructed.

2. Mr Narayan, learned counsel appearing for respondents points out that an application for impleadment was filed by the sons of late Pyarelal (CM

3635/2018). The said application was disposed of by an order passed on 30.01.2018 permitting the said applicants to make a representation to the respondents. He seeks time to take instructions as to whether any such representation was made and if so, the results thereof.

3. It also *prima facie* appears that unless a party established that they are entitled to the land in question, it would not be permissible for the said party to raise any construction thereon. The SDM shall also verify whether the *chabutra* in question had been demolished pursuant to the orders passed on 23.11.2001 in **Case No. 113A of 2000** captioned **Om Prakash v. Pyare Lal** and further proceedings.

4. This Court consider it apposite that the said controversy be once again considered by the SDM. The SDM shall consider the averments made in the present petition and take an informed decision as expeditiously as possible, preferably within a period of three months from today. The SDM shall also consider the representation, if any, made by any other party including the applicants in CM 3635/2018 (the persons who are now alleged to have reconstructed the *chabutra*). The concerned SDM shall take an appropriate decision and consequent steps within a period of twelve weeks from date.

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

VIBHU BAKHRU, J

NOVEMBER 15, 2018
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