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

+ W.P.(C) 1436/2019

YOGESH JAIN & ORS

..... Petitioners

Through: Mr Praveen Kumar Dilip Gupta
and Mr Sameer Rai, Advocates.

versus

GOVERNMENT OF NCT OF DELHI & ORS Respondents

Through: Mr Ajjay Arora and Mr Kapil
Dutta, Advocates for SDMC.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

ORDER

% **12.02.2019**

CM No.6601/2019

1. Allowed, subject to all just exceptions.

W.P.(C) 1436/2019 & CM No.6600/2019

2. The petitioners have filed the present petition, *inter alia*, praying as under:-

“a) quash the Notices dated 12.01.2019 bearing no.F6/SDM/KJ/2018/219 and 24.01.2019 bearing no.F6/SDM/KJ/2018/219 and quash the demolition drive.”

3. Respondent no. 2 (The Sub-Divisional Magistrate, Kalkaji) had issued the impugned notice dated 12.01.2019, indicating that it had received reports that there was encroachment on Ratia Marg on government land in Khasra No. 1352, Ratia Marg, Village Tughlakabad, New Delhi (hereafter ‘the said Land’).

4. The encroachers were duly informed by a public notice to remove the encroachment within a period of seven days failing which, a demolition drive would be carried out with effect from 25.01.2019. Subsequently, a notice dated 24.01.2019 was issued informing all concerned that demolition of illegal encroachment on the said Land will be carried out on 06.02.2019.

5. The petitioners claim that they own shops on Ratia Marg. Their principal grievance is that they are unaware as to the extent of encroachment as no separate notices have been issued to them. The petitioners further state that demolition drive was carried on and instead of removing the offending portions, some of the buildings were completely demolished.

6. The petitioners claim that since they are ignorant about any encroachment, they have no means for effectively removing the encroachment. It is also stated that if there is any encroachment on Ratia Marg, the petitioners should be granted an opportunity to voluntarily take the necessary steps for removal of the same rather than face a haphazard demolition by the respondents.

7. It is difficult for this Court to appreciate that the petitioners are ignorant as to the encroachment on the said Land. Surely, they would be aware whether they have encroached upon public land or not. If they had any doubt in this regard, it was always open for them to approach the concerned authorities for the necessary maps or demarcation of their lands. Be that as it may, since the petitioners have expressed that they are desirous of voluntarily removing the encroachment, this Court considers it apposite that such an opportunity ought to be given to them.

8. Accordingly, the petitioners are permitted to approach the concerned SDM for necessary information regarding the width of Ratia Marg the relevant map of the said Land, and any other relevant information regarding the extent of encroachment. The learned counsel appearing for the petitioners state that they would approach the concerned SDM today itself. In the event that they do so, the concerned SDM is directed to provide necessary information, preferably forthwith and, in any event, no later than two working days. It is also directed that if the petitioners give an undertaking within the aforesaid period to remove the encroachment voluntarily, no demolition with regard to their property would be undertaken for a period of two weeks from the date of the said undertaking.

9. It is clarified that if the petitioners do not give any undertaking, the concerned authorities shall proceed with the demolition drive as planned. Further if the petitioners do give the undertaking as mentioned above but fail to comply within a period of two weeks as foresaid, the concerned authorities shall proceed with the demolition drive.

10. The petition is disposed of in the aforesaid terms. The pending applications are also disposed of.

11. Order *dasti* under signatures of the Court Master.

VIBHU BAKHRU, J

FEBRUARY 12, 2019
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