

\$~48

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

+ **W.P.(C) 8157/2019**

AJIT PAL SINGH AND ORS.

..... Petitioners

Through Mr Kirti Uppal, Senior Advocate with
Ms Nishima Arora, Ms Bhagya K. Yadav,
Advocates with petitioner in person.

versus

LIEUTENANT GOVERNOR OF DELHI AND
ORS.

..... Respondents

Through Mr Mohd Umar Iqbal Khan, Mr Mohd
Ishad, Advocates for R1 to R4.

Mr Mohinder J.S. Rupal, Advocate with
Mr Hardik Rupal, Mr Priyang Newmai,
Mr Koushik, Advocates for University.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

ORDER

%

29.07.2019

CM APPL. 33793/2019

1. Allowed, subject to all just exceptions.
2. The application is disposed of.

W.P.(C) 8157/2019 & CM APPL. 33794/2019

3. Issue notice. The learned counsel appearing for the respondents accept notice.
4. The petitioners have filed the present petition, *inter alia*, praying that the respondents and their agents, servants, attorneys, representatives be restrained from raising illegal/unauthorized construction in and on the

agricultural land measuring 14 bighas and 2 biswas, bearing Mustatil No. 106, killa nos. 17 (4-16), 18 min (3-12), 23 min (3-12) and 24/1 (2-2) situated in the revenue estate of village Dera-Mandi, Tehsil Hauz Khas, Mehrauli, New Delhi-110047, and from encroaching upon private land of the petitioners. The petitioners further pray that directions be issued to the respondents to remove/demolish the illegal/unauthorized construction raised on the said writ premises.

5. The petitioners contend that respondent no.5 is illegally building a boundary wall on the land belonging to the petitioners.

6. Admittedly, respondent no.5 was allotted 40 bighas of land in Khasra Nos. 1937/1307 to 1990/1307 in village Fatehpur Beri, District South, Delhi. The said land was allotted for opening a Girls Degree College. It appears that in addition to the above, 9 bighas and 15 biswas of land was allotted for opening a Senior Secondary School and 1 bigha 10 biswas of land was allotted to Development Department, GNCTD for opening an Animal Husbandry Hospital.

7. Mr Rupal, learned counsel appearing for respondent no.5 has handed over a photocopy of a document dated 15.07.2019 issued by the Government of NCT of Delhi, calling upon the concerned entities to take physical possession of the land allotted to them. It is stated that pursuant to the same, respondent no.5 took the physical possession of the plot of land on 19.07.2019.

8. According to the petitioners, respondent no.5 is now claiming possession of the land which is located in the estate of village in Dera and not Fatehpur Beri. Mr Uppal, learned senior counsel appearing for the

petitioners, has also drawn the attention of this Court to a letter dated 24.08.2018 addressed by petitioner no.3 to the Tehsildar, Mehrauli, requesting that demarcation of certain lands be carried out.

9. It is apparent from the above that the dispute between the parties, essentially, relates to the title of the property now handed over to respondent no.5. Whereas the petitioners' claim that the land in physical possession of respondent no.5 is not the land allotted to the said respondent, the respondents dispute the same.

10. Clearly, it is not apposite to consider such disputes in proceedings under Article 226 of the Constitution of India and this Court declines to do so. It is, however, open for the petitioners to avail of appropriate remedies.

11. Insofar as the petitioners' prayer that the concerned Tehsildar be directed to carry out the demarcation is concerned, the same is merited. It is stated that the petitioners have already deposited the requisite fees for the demarcation.

12. In this view, respondent no.2 is directed to carry out the demarcation as requested by the petitioners, if not already done, within a period of eight weeks, from today.

13. The learned counsel appearing for respondent no.2 states that request for demarcation was filed in August, 2018, but he does not have any instructions as to whether any demarcation had been carried out pursuant to the said request. Plainly, if the demarcation has been carried out pursuant to the said request, there would be no requirement to carry out the same afresh. The petitioners would be at liberty to seek copies of the report and take such steps as may be advised.

14. This Court does not consider it apposite to restrain respondent no.5 in any manner to carry out any activity on the land, possession of which was handed over to it. Needless to state that if the petitioners succeed in establishing that the land in question belongs to them, the same would have to be restored to the petitioners and it would not be open for respondent no.5 to claim any equities on account of construction carried on the said land.

15. The petition is disposed of in the aforesaid terms. The pending application is also disposed of.

16. Order *dasti* under the signature of Court Master.

VIBHU BAKHRU, J

JULY 29, 2019/pkv