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

+ **W.P.(C) 8277/2019**

SAARTHI AIRWAYS PVT LTD

..... Petitioner

Through: Mr Jayant Mehta with Mr Vikram
Singh Chauhan, Advocates.

versus

GOVERNMENT OF NCT & ORS

..... Respondents

Through: Mr Yeeshu Jain, Standing Counsel
with Ms Jyoti Tyagi, Advocates for
R-1.

Mr Rishikesh Kumar, ASC with Mr
Premasagar Pal, Advocate for R-2, 3, 4
and 6.

Mr Mohinder J. S. Rupal, Mr Hardik
Rupal, Mr Prang Newmati and Mr
Kaushik Ghosh, Advocates.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

ORDER

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31.07.2019

CM No.34303/2019

1. Allowed, subject to all just exceptions.

W.P.(C) 8277/2019 & CM No. 34304/2019

2. Issue notice. The learned counsel appearing for the respondents accept notice.

3. The petitioners have filed the present petition, *inter alia*, praying that the respondents and their agents, servants, attorneys and representatives be

restrained from raising illegal/unauthorized construction in and on the land consisting of 12 bighas 4 biswas being Mustatil no.106, Killa Nos. 8 Min (3-00), 13 Min (4-00), 14 (4-08), 18 Min (0-08) and 23 Min (0-08) situated in the revenue estate of village Dera Mandi, Tehsil Mehrauli, New Delhi and from encroaching upon the 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.

4. The petitioners contend that respondent no.5 (The University of Delhi) is illegally building a boundary wall on the land belonging to the petitioners.

5. 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 the Development Department, GNCTD for opening an Animal Husbandry Hospital.

6. 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.

7. According to the petitioners, respondent no.5 is now claiming

possession of the land which is located in the estate of the village in Dera and not Fatehpur Beri. Mr Mehta, learned counsel appearing for the petitioners, has also drawn the attention of this Court to letters dated 24.08.2018, 11.09.2018 and 19.02.2019 addressed by petitioner no.3 to the Tehsildar, Mehrauli, requesting that the demarcation of certain lands be carried out.

8. 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 petitioner claims that the land in physical possession of respondent no.5 is not the land allotted to the said respondent, the respondents dispute the same.

9. 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.

10. Insofar as the petitioner's 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 exercise.

11. In this view, respondent no.2 (The Deputy Commissioner, District South, Delhi) is directed to carry out the demarcation as requested by the petitioners, if not already done, within a period of eight weeks from today.

12. The learned counsel appearing for respondent no.2 states that although request for demarcation was made 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.

13. This Court does not consider it apposite to restrain respondent no.5 in any manner to carry out any activity on the land, the 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.

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

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

JULY 31, 2019
MK

VIBHU BAKHRU, J