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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
Date of decision: 17th December, 2019
+ **W.P.(C) 8751/2019**
MEHRAULI MINORITIES RESIDENT AND SHOP OWNERS

WELFARE ASSOCIATION Petitioner

Through: Mr. Syed Hasan Isfahani & Mohd.
Hasan, Advocates (M-9990067910)

versus

DELHI WAQF BOARD AND ORS. Respondents

Through: Mr. Hashmat Nabi, ASC with Ms.
Farah Naaz & Ms. V. Swathi,
Advocates for R-1 (M-9810017822)
SI Sandeep Yadav, PS Mehrauli (M-
9818415823)
Mr. Devendra Kumar, Advocate for
Mr. Anjum Javed, ASC for R-2 and 3
(M-8744880124)

CORAM:
JUSTICE PRATHIBA M. SINGH

Prathiba M. Singh, J. (Oral)

1. The present petition has been filed by the Petitioner – Mehrauli Minorities Resident and Shop Owners Welfare Association, which is a registered society under the Societies Registration Act, 1860. Its members are stated to consist of residents and shop owners of Mehrauli. The case of the Petitioner is that the village Mehrauli consists of many structures and lands, including *Masjid*, *Qabristan*, *Khankah*, *Dargah* and various other places which constitute Waqf property and are managed by the Delhi Waqf Board. According to the Petitioner, as per Section 4 of the Waqf Act, 1995,

upon the Waqf Amendment Act, 2013 coming into force, within one year, a survey of the Waqf properties is to be conducted. Since the Survey Commissioner of Waqfs ('Survey Commissioner') has been appointed on 22nd April, 2019, the said Commissioner has a period of one year to conduct the survey of the area.

2. Accordingly, the Petitioner prays for the following writ to be issued:

*“a) issue writ of mandamus directing the Respondents to complete the survey and publications of Waqf properties in accordance with the section 4 & 5 of the Waqf Act, 1995, situated in Mehrauli specifically the graveyard (Qabristan) near Jal Board water tank, Ward No.8, Mehrauli, New Delhi; and
b) pass such and further orders as this Hon'ble Court may deem fit and proper in the facts and circumstances of the present case.”*

3. Ld. counsel appearing for the Waqf Board submits that the primary duty of carrying out the survey is of the GNCTD. Ld. counsel appearing for the GNCTD submits that vide letter dated 10th July, 2019, the Petitioner has been requested to provide some information including khasra number, etc. in order to enable the Survey Commissioner to conduct the survey. The said letter reads as under:

“To,
To President
M.M.R.O.W.A.
Shop No.T-30, G/Floor,
Khasra No.1151/3,
Main Road, Mehrauli
New Delhi 110017

10th July, 2019

***Sub:- Request for survey of Waqf land (Qabristan)
Near Jal Board Water tank situated at Ward No.8,***

Mehrauli, New Delhi.

Ref. No:- Your Letter dated 4.6.2019

Sir,

Kindly refer to your letter dated 04/06/2019 on the subject cited above wherein it has been requested that a survey of the Waqf Property situated in Mehrauli, especially qabristan situated near Delhi Jal Board be made under the provision 4(3) of Waqf Act, 1995. In this regard you are requested to arrange the khasra number and gazette notification if any in respect of the above said property and get the same registered with Waqf Board.

The provision under Waqf Act is that first of all, Delhi Waqf Board has to make the registration said Waqf property if not done earlier. Also recommendation of C.E.O. Delhi Waqf Board is required in this regard. After the needful is done by CEO (DWB) then the action with regard to survey of this property can be taken by this office. Further, the matter removing of encroachments may be taken up with the Waqf Board.

*Shehzad Khan,
Survey Commissioner
(Waqf)''*

4. After hearing the submissions of the parties and perusing Section 4 of the Waqf Act, it is clear that a survey is required to be conducted in accordance with the prescribed procedures. The time for concluding the survey in terms of the Act, as per all counsels, expires in April 2020. The Survey is also essential to ensure that the properties are duly demarcated and protected from encroachments.

5. Accordingly, it is directed that within a period of two weeks from today, the Survey Commissioner of Auqafs/Wakfs shall commence the survey of the Mehrauli area and shall complete the same on or before 15th

February, 2020. In order to conduct the survey, the Delhi Waqf Board and the Petitioner shall assist the Survey Commissioner of Waqfs and provide any records which may be required. Any other records required from any other municipal authorities, including the Revenue authorities shall also be provided by the concerned authorities, upon request, to the Survey Commissioner. After the survey is conducted, the survey report shall be published in accordance with law including the provisions of the Wakf Act, 1995.

6. With these observations, the petition and all pending applications are disposed of.

7. A copy of this order be given *dasti* under signatures of the Court Master.

**PRATHIBA M. SINGH
JUDGE**

DECEMBER 17, 2019

Rahul