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

+ LPA 589/2019 & CM No. 40789/2019

% *Date of Decision: 10th October, 2019*

RAM PRAKASH MITTAL & ANR Appellants
Through: Mr.B.K.Sood, Adv. with Mr.Harish
Gaur, Mr.V.P.Rana, Mr.Karan Singh, Adv.

Versus

GOVT OF NCT OF DELHI & ORS Respondents
Through: Mr. Yeeshu Jain, Standing Counsel
with Ms. Jyoti Tyagi, Adv. for R-1 and 2.
Mr.Parvinder Chauhan, Standing Counsel with Mr.
Nitin Jain, Adv. for DUSIB
Ms.Shefali Vohra, Adv. for R-3/SDM Model
Town
Ms. Mini Pushkarna, Standing Counsel with Ms.
Swagata Bhuyan, Ms.Shiva Pandey and Ms.
Khushboo Nahar, Adv. for North DMC/R-4

CORAM:
HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE C.HARI SHANKAR

JUDGMENT

: **D. N. PATEL, Chief Justice (Oral)**

1. This Letters Patent Appeal has been preferred by the original petitioner against order dated 30th August, 2019 passed by the learned Single Judge in C.M.Appl.No.39032/2019 in W.P.(C) No.9478/2019 whereby stay was denied to the appellant herein. The appellant is claiming to be owner in

possession of the property in question. No land acquisition proceedings is pending as on today, even then the respondents are constructing compound wall upon the land of the appellant, hence stay application was preferred but no stay has been granted by the learned Single Judge and the respondents are going ahead with the construction of the compound wall, hence the present appeal has been preferred by the original petitioner.

2. Having heard the learned counsel for the parties and looking to the facts and circumstances of the case, it appears that the land in question is situated at Khasra Nos.79 Min (3-3) and 80 Min (1-4) of Village Bhalswa, Jahangirpur, Teh.Model Town, Distt. North-West Delhi. It further appears from the facts of the case that earlier the land acquisition proceedings were initiated and the award was passed on 3rd February, 2006.

3. The appellant initially preferred W.P.(C) No.7839/2009 challenging the land acquisition proceedings. This writ petition preferred by the appellant herein was allowed by this Court vide order dated 30th September, 2016. No stay has been granted by any competent appellate Court against the order dated 30th September, 2016. Thus, the order passed by this Court dated 30th September, 2016 in W.P.(C) No.7839/2009 has attained its finality.

4. *Prima facie*, it appears that, as on today, the ownership and possession of the land in question is in favour of the appellant. It further appears from the facts of the case that for restoration of the mutation entry in favour of the appellant, an application was preferred but the respondents having not mutated the revenue entries in favour of the appellant and hence, the contempt application has been preferred by the appellant being Cont.Cas.(C) No.757/2018 which is pending before this Court.

5. Thus, it appears that the respondents want to construct the compound wall upon the aforesaid property which is *prima facie* owned and in possession of the appellant. Hence, the learned Single Judge ought to have directed the parties to maintain status quo with regard to the ownership and possession of the property in question as well as with regard to construction activity.

6. Learned counsel appearing for the respondent No.5 submits that this appeal is not tenable in law because W.P.(C) No.9478/2019 and CM No.39032/2019 are otherwise pending before the learned Single Judge.

7. We are not in agreement with the contention raised by learned counsel for the respondent No.5 mainly for the reason that when the ownership and possession of the property is in dispute, no construction can be allowed. Moreover, the judgment in W.P.(C) 7839/2019 is in favour of this appellant.

8. We, therefore, direct the parties to maintain status quo with regard to ownership, possession and construction of the property in question. We also direct parties to this litigation not to do any construction activity, neither any superstructure nor even of a compound wall and if construction is grossly required by either of the parties, in such eventuality, an application shall be preferred in the pending writ petition before the learned Single Judge in W.P.(C) No.9478/2019 and only with the permission of the learned Single Judge, the construction can be carried out.

9. As the writ petition is pending before the learned Single Judge, we are not much analysing the facts of the case, suffice would it be to state that W.P.(C) No.9478/2019 shall be decided by the learned Single Judge in accordance with law, rules, regulations and Government policies applicable

to the facts of the present case and on the basis of the evidence on record, after appreciating the reply, if any, filed by the respondents and without being influenced by the order passed by this Court in this LPA.

10. With these observations, this LPA is allowed and disposed of.

C.M.No.40789/2019

In view of the final orders passed aforesaid in the LPA, this application also stands disposed of.

CHIEF JUSTICE

C.HARI SHANKAR, J

OCTOBER 10, 2019

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