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

+ CM(M) 532/2011 and C.M. Nos. 8796/2011, 11276/2011 &
5842/2015

MCD

..... Petitioner

Through: Mr. Sanjay Poddar, Sr. Adv. with Ms.
Mini Pushkarna, Ms. Swagata
Bhuyan, Ms. Shiva Pandey and Ms.
Khushboo Nahar, Advs. for North
DMC.

versus

JAI SINGH & ORS

..... Respondent

Through: Dr. Arun Mohan, Sr. Adv. with Mr.
Arvind Bhatt, Mr. Kuber Giri, Advs.
with respondent in person.
Mr. Ram Kumar, Adv. for DTC.
Mr. Sanjay Singh with Mr. Arun
Birbal, Advs. for DDA.

+ CM(M) 1105/2012 and C.M. No. 17445/2012

NORTH,DMC

..... Petitioner

Through: Mr. Sanjay Poddar, Sr. Adv. with Ms.
Mini Pushkarna, Ms. Swagata
Bhuyan, Ms. Shiva Pandey and Ms.
Khushboo Nahar, Advs. for North
DMC.

versus

JAI SINGH AND ORS

..... Respondent

Through: Dr. Arun Mohan, Sr. Adv. with Mr.
Arvind Bhatt, Mr. Kuber Giri, Advs.
with respondent in person.
Mr. Ram Kumar, Adv. for DTC

+ W.P.(C) 4307/2012 and C.M. Nos. 8924/2012, 11950/2013 & 9902/2014

JAI SINGH AND ANR

..... Petitioner

Through: Dr. Arun Mohan, Sr. Adv. with Mr. Arvind Bhatt, Mr. Kuber Giri, Advs. with petitioner in person.

versus

LAND ACQUISITION COLLECTOR/ ADM AND ORS

..... Respondent

Through: Mr. Sanjay Poddar, Sr. Adv. with Ms. Mini Pushkarna, Ms. Swagata Bhuyan, Ms. Shiva Pandey and Ms. Khushboo Nahar, Advs. for North DMC.
Mr. Kirti Uppal, Sr. Adv. with Mr. Ram Kumar, Mr. Sidharth Chopra and Mr. Aditya Awasthi, Advs. for R-6.
Mr. Abhay Prakash Sahay, CGSC with Mr. Rahul, Advs.

CORAM:

HON'BLE MR. JUSTICE VIPIN SANGHI

HON'BLE MR. JUSTICE SANJEEV NARULA

ORDER
05.11.2019

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W.P.(C) 4307/2012 and C.M. Nos. 8924/2012, 11950/2013 & 9902/2014

On 31.10.2019, we heard the submissions of learned senior counsels appearing for the parties. It was suggested to the parties that the deadlock operating in respect of the present proceedings, and the proceedings in

respect of the title suit preferred by the petitioner could be resolved and the matter could proceed to culmination. The matter was adjourned to enable the parties to formulate the aspects on which the Court may pass an order.

The petitioner has preferred the present writ petition to seek the following reliefs:

“i) Quash and set aside Section 4 Notification No. F.No.8(13)/10/L&B/LA/8171 dated 19.09.2011 (Annx P-1) and Notification F.8(13)/10/L&B/LA/19804 dated 28.03.2012 (declaration) (Annx P-3) issued under Section 6 of the Land Acquisition Act, 1894 seeking to acquire only the superstructure – without the land underneath – of the Petitioner’s property Plot No. 2, Block B Faiz Road, Jhandewalan Estate, New Delhi, more fully described in para 4 above, and all subsequent proceedings under the said Notifications;

ii) Quash and set aside the proceedings before the Collector for acquisition of the Petitioner’s property, in pursuance of the above notifications, and his Report dated 28.01.2012 (Annx P-2);

iii) Direct the Respondents to refer the question of title to Plot No. 2, Block B Faiz Road, Jhandewalan Estate to the civil court or await the civil court’s judgment in the pending 1980 suit;

iv) Direct the Respondents to maintain status quo and till then, restrain them from in way obstructing or disturbing the Petitioner’s legal possession of the property and actual physical possession of six rooms although the MCD may continue to use the property as they were using it in the past one year;”

The petitioner has preferred a title suit being Civil Suit No. 97611/2016, earlier numbered as suit No. 361/1980 titled **Jai Singh & Ors. v. DTC & Ors.**, wherein a declaration has been sought by the petitioners in

respect of their ownership of the suit property. The said suit is still pending before Civil Judge, Tis Hazari, New Delhi. The proceedings in the said suit have been stayed vide order dated 06.12.2012 passed in CM(M) 1105/2012, which has been preferred by the North Delhi Municipal Corporation to assail the order passed in the said suit dismissing the application for impleadment moved by the North Delhi Municipal Corporation under Order 1 Rule 10 CPC.

The petitioner has preferred Execution Proceedings in respect of an eviction order obtained by the petitioner on 11.11.1999, which is pending vide Execution No. 751/2019 in the Court of Shri Sushir Agarwal, ARC (Tis Hazari Court, New Delhi). In respect of the said Execution Proceedings, the Municipal Corporation has preferred C.M.(M) No. 532/2011, wherein partial stay of execution was granted vide order dated 04.05.2011. The Supreme Court modified the said order vide order dated 03.04.2019 in Special Leave Petition No. 113/2018, whereunder the keys of the built up premises stands deposited with the Executing Court.

Without prejudice to the rights and contentions of the parties, and with a view to achieve expeditious resolution of all pending disputes, inter se the parties, the parties have agreed as follows:

(i) The petitioner/ plaintiff in Suit No. 97611/2016 is agreeable to impleadment of North Delhi Municipal Corporation as a party defendant. It is ordered accordingly.

(ii) Learned counsel for the North Delhi Municipal Corporation, on instructions, states that no objection to non issuance of prior notice under Section 478 of the Delhi Municipal Corporation Act, prior to filing of the suit, shall be raised by the said Corporation. Accordingly, the said objection

stands waived.

(iii) The petitioner/ plaintiff is permitted to amend the plaint by filing an amended plaint within 15 days from today. The said amendment shall be filed to incorporate the subsequent events and documents and records produced by the respondent before this Court. It goes without saying that in pleadings, only the facts can be pleaded and, accordingly, the pleadings incorporated in the amendment should relate to subsequent events, documents and record, as aforesaid, and to other relevant facts and nothing more.

(iv) The defendants in the suit, including the North Delhi Municipal Corporation shall file their written statement within 30 days of the filing of the amended plaint before the Trial Court.

(v) We request the Trial Court to take up the disposal of the suit on priority, since the suit has been pending since the year 1980. We hope and expect the Trial Court to conclude the trial by 30.06.2020 and to render its decision by 30.07.2020.

(vi) The Execution Proceedings in Execution No. 751/2019 shall remain stayed till further orders. The keys deposited by the respondent before the Executing Court in terms of the order passed by the Supreme Court shall continue to remain in deposit with the said Executing Court.

(vii) In the light of the aforesaid, CM(M) 1105/2012 and C.M. No. 17445/2012 stands disposed of as infructuous.

(viii) Neither party shall take any undue adjournments before the Trial Court, and the Trial Court shall not adjourn the proceedings unless it is absolutely necessary. The parties shall appear before the Trial Court on 25.11.2019

(ix) In case, either party applies for certified copies of the record of this writ petition, the same shall be made available by the Registry on priority.

CM(M) 532/2011 with C.M. Nos. 8796/2011, 11276/2011 & 5842/2015 & W.P.(C) 4307/2012 with C.M. Nos. 8924/2012, 11950/2013 & 9902/2014

List for directions before this Court on 17.08.2020.

Dasti.

VIPIN SANGHI, J

SANJEEV NARULA, J

NOVEMBER 05, 2019

N.Khanna