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

+ **W.P.(C) 9024/2016 & CM APPLN. Nos.36545/2016, 39795/2016,
15957/2017, 16103/2017, 16193/2017, 649/2018, 22007/2018,
40052/2018, CRL.M.A. No.2991/2017**

DINESH TANWAR

..... Petitioner

Through Mr. S. K. Mishra, Inder, G. S. Tiwari,
Mr. Pratap Singh, Mr. Vipin Kumar,
and Mr. Sanjay Kumar Jha, Advs.

versus

NORTH DELHI MUNICIPAL CORPORATION OF DELHI & ORS

..... Respondents

Through Ms. Akshaya Ganpathi, proxy counsel
for Ms. Renu Gupta, Standing
Counsel, NDMC.
Mr. Sumeet Pushkarna, Adv. for DJB.
Mr. Dhananjaya Mishra, Adv. for R2
to 6.
Mr. Abhay Kumar and Mr. Saurabh
Mishra, Advs for TPDDL.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

ORDER

% **23.07.2019**

1. The petitioner has filed the present petition, inter alia, praying
as under:

“a. direct the Respondents to stop the illegal and
unauthorized construction and encroachment by the ill-
persons / land grabbers on the service road in between
Ramesh Nagar Metro Station and Bali Nagar Chowk in

front of Surya Mandir managed by the petitioner as secretary and it is from Metro Pillar No.358 to 365 and further direct to demolish the illegal unauthorized construction and encroachment in the ibid premises done without adopting due process of law and also further direct to restore / or develop the service land accordingly, in the interest of justice.

b. direct the respondents to check / inspect the aforesaid premises i.e. encroachment on the service road in between Ramesh Nagar Metro Station and Bali Nagar Chowk in front of Surya Mandir managed by the petitioner as secretary and it is from Metro Pillar No.358 to 365 to point out the illegal and unauthorized construction in the same and take necessary action as per law.”

2. It is the petitioner’s case that certain persons have unauthorizedly encroached upon right of way (RoW) between metro pillar 358 and 365, in front of Surya Mandir, near Ramesh Nagar Metro Station.

3. There was some controversy as to the actual width of the road, which was alleged to have been encroached upon. According to the North Delhi Municipal Corporation, the width of the road was 200 feet. However, according to the Revenue Authorities, the width of the road was 66 feet. It was also stated that on a physical inspection, the width of the road was found to be 120 feet. Given the confusion with regard to the width of the road, this Court had by an order dated 30.10.2018, directed respondent nos. 5 and 6 to carry out demarcation of the road in question, in accordance with the revenue records.

3. In compliance with the aforesaid order, the demarcation of the area was carried out and a demarcation report dated 02.07.2019 has been filed on

behalf of the said respondents. The said report indicates that there is encroachment in Khasra No.1509 and the width of the road is approximately 140 feet. According to the respondent Nos.5 and 6, the said encroachment is not on the road but on the revenue land. It is stated that Khasra No.1509 is reflected as a *johar* (water body) in the revenue records.

4. The learned counsel appearing for respondent Nos.5 to 6 also submitted that a Special Task Force (STF) has been constituted by the Supreme Court to look into the matter of unauthorized construction and encroachment. He also referred to the decision of the Division Bench of this Court in ***Devender v. Govt. of NCT of Delhi and Ors.; WP(C) No.1807/2018 decided on 20.09.2018***, and on the strength of the said decision, contended that the petitioner be relegated to approach the said STF.

5. The aforesaid contention is merited. The Division Bench of this Court has passed a number of orders refraining from passing any order with regard to the removal of encroachment as a STF has already been constituted by the Supreme Court. In the aforesaid view, the present petition is disposed of by leaving it open for the petitioner to make a complaint to the STF.

6. It is also seen that an application for impleadment (CM Appln. No.38746/2016) has been filed by Ramesh Nagar Bander Wali Khui Traders & Welfare Association (Regd.). They contest the allegation that there is an encroachment on either the road in question, or on the revenue land. The learned counsel appearing for the said Association also seeks to contest the demarcation report filed by respondent nos. 5 and 6. This Court does not

consider it apposite to entertain the said controversy in this petition.
Needless to state that all contentions in this regard are reserved.

7. All pending applications are also disposed of.

JULY 23, 2019
DR

VIBHU BAKHRU, J