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

Date of decision: 17th October, 2019

+ **W.P.(CRL) 3411/2017**

PAVIT SINGH

..... Petitioner

Through: **Ms. Kanika Sood, Adv.**

versus

CENTRAL BUREAU OF INVESTIGATION..... Respondent

Through: **Mr. Anupam S. Sharma, SPP-CBI**
with **Mr. P. Airan** and **Mr. Eric Karan Sharma,**
Advs.

Mr. Gautam Narayan, ASC-GNCTD with **Ms.**
Shivani Vij and
Ms. Dacchita Shahi, Advs.

CORAM:

HON'BLE THE CHIEF JUSTICE

HON'BLE MR. JUSTICE C.HARI SHANKAR

ORDER

17.10.2019

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D.N. PATEL, CHIEF JUSTICE (ORAL)

W.P.(CRL) 3411/2017

1. This Public Interest Litigation has been preferred with the following prayers :

“i. Issue an appropriate writ, order or direction to the Central Bureau of Investigation to register a complaint in respect of the facts stated in the present Petitioner in relation to encroachment of land in the forest areas of Maidangarhi, Neb Sarai, etc. and investigate the matter thoroughly to determine the involvement of officials of

various department of the Govt. of NCT of Delhi as well as land / building mafia and take all steps in furtherance of such investigation required in law and in the interest of justice;

ii. Pass any such other further orders as this Hon'ble Court deems fit in the interests of justice and equity."

2. Having heard learned counsel for both the sides and looking at the facts and circumstances of the case, it appears that the main grievances ventilated in this writ petition are about large scale encroachment and unauthorised construction in reserved forest areas of Maidangarhi, Neb Sarai etc. for which investigation may be carried out by the Central Bureau of Investigation (CBI).

3. We have heard learned counsel for the respondents who submitted that one matter is already pending before National Green Tribunal (NGT) bearing no. OA 58/2013 titled *Somya Ghosh v. GNCTD & Ors.*, and as per the directions passed from time to time by the NGT, there is compliance thereof especially of the demarcation process. It is submitted by counsel for the respondents that for southern ridge, most of the work of demarcation is over. Once such type of demarcation is over, actions for removal of the encroachment can be initiated in accordance with law.

4. In view of the aforesaid submissions and also looking at the facts and circumstances of the case, it appears that there are allegations about large scale encroachment and unauthorised construction for which the petitioner is seeking investigation by CBI. This prayer cannot be accepted by this Court mainly for the reasons stated herein below :

(a) Under Article 226 of the Constitution of India, this Court cannot presume, on the basis of vague and uncorroborated averments, that any particular construction is unauthorised.

To establish the unauthorised construction, cogent and convincing evidence should be given. Notices are to be given and hearing ought to have taken place.

(b) Upon general allegation that there is a large scale encroachment and unauthorised construction, it is not sufficient for giving investigation to the CBI.

(c) It appears from the facts of the case that the demarcation process as stated hereinabove for the forest area is going on, therefore, respondents cannot take immediate action for the removal of the encroachments on the basis of general allegations.

(d) However, if any particular case of encroachment is brought to the notice of the concerned authority, in such individual case, the action can be initiated by the respondents.

5. In view of the above, we hereby direct the respondents to remove the encroachments from the forest area as stated in the memo of this petition in accordance with law, rules, regulations and Government policy applicable to the facts of the case and after giving an adequate opportunity of being heard to the owner/occupier of the superstructure.

6. With these observations, this writ petition is hereby disposed of.

CHIEF JUSTICE

C.HARI SHANKAR, J.

OCTOBER 17, 2019/kr