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

Date of Decision: 13th September, 2019

+ W.P.(C) 13235/2018 & CM APPL. 51476/2018

MOHD. KAMRAN

..... Petitioner

Through: Ms. Shikha Kapoor with
Mr. Janender Mahajan, Advs.

versus

UNION OF INDIA AND ORS.

..... Respondents

Through: Mr. Praveen Kumar Jain with
Ms. Nikita Pal, Advs. for R-1.
Mr. Gautam Narayan, ASC, GNCTD
(DoE) with Ms. Shivani Vij &
Ms. Dacchita Shahi, Advs. for
GNCTD.
Mr. Pradeep Kaushik, L.A. Zone-27
and Mr. Raj Kumari, DEO,
DDEC/N.D. Office Jhandewalan,
New Delhi.
Mr. Hashmat Nabi, ASC with
Mr. Rizwan Ahmed, Advs. for
R-3/DWB.

CORAM:

HON'BLE THE CHIEF JUSTICE

HON'BLE MR. JUSTICE C.HARI SHANKAR

D.N. PATEL, CHIEF JUSTICE (Oral)

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

“A. Issue the directions to Respondent No.1 and 2 to construct and develop an up-graded Senior Secondary girls school with

all the modern day amenities on plot bearing old no. 2440, Kamra Bangash, main Road, TirahaBahram Khan, Daryaganj, opposite KhajoorWali Masjid, Delhi-110006 (new no. 2441-2442, KamraBangash, main Road, TirahaBahram Khan, Daryaganj, Opposite KhajoorWali Masjid, Delhi-110006).

B. Issue directions to Respondent No. 1 to introduce norms and standards of inclusive education of girl child within the ambit of the RTE Act;

C. Issue directions to the Respondent No.2 and 3 to take appropriate action for removing illegal occupants/invaders/encroachers from plot bearing old no.2440, KamraBangash, main Road, TirahaBahram Khan, Daryaganj, Opposite KhajoorWali Masjid, Delhi-110006 (new no.2441-2442, KamraBangash, main Road, TirahaBahram Khan, Daryaganj, Opposite KhajoorWali Masjid, Delhi-110006).

D. Pass such further orders as may be deemed fit and proper in the facts and circumstances of the present case.”

2. Having heard the counsel for both the sides and looking to the facts and circumstances of the case, it appears that the plot in question, as alleged by the counsel for the petitioner, was given for the construction of the school to respondent No.3/Delhi Waqf Board and instead of construction of the school, there is encroachment upon the said property and hence, the aforesaid direction is being sought by the petitioner from this Court upon the respondents.

3. We have heard the counsel appearing for respondent No.3, who has submitted that a detailed counter affidavit has been filed and that Paragraph 7 of the said affidavit states that there is no encroachment and the plot is lying vacant. It is also submitted by counsel for respondent No.3 that the school is to be constructed by respondent No.2.

4. Counsel for respondent No.2 submits that the plot in question belongs to respondent No.3 and the said plot has not been handed over to respondent No.2. Hence, no question whatsoever arises of construction of the school by respondent No.2 upon the property of respondent No.3.

5. In view of the aforesaid submissions, it appears that the encroachment in question is also a disputed question of fact, as stated in Paragraph 7 of the counter affidavit filed by respondent No.3. Moreover, the property in question belongs to respondent No.3. If respondent No.3 prefers any application before the other respondents for construction of the school, it will be appreciated by other respondents in accordance with law for the said purpose. Thus, it appears that owner/respondent No.3 has to prefer a proper application for the construction of the school. As and when such application will be preferred, a decision will be taken by the other respondents as per the budgetary provisions available with them, and also as per their priority.

6. With these observations, the writ petition is hereby disposed of. The pending application also stands disposed of accordingly.

CHIEF JUSTICE

C.HARI SHANKAR, J

SEPTEMBER 13, 2019

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