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IN THE HIGH COURT OF DELHI AT NEW DELHI

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W.P.(C) 3521/2020, CM APPL. 12521/2020 & CM APPL. 12522/2020

INDRAJ AND ORS

.....Petitioners

Through: Mr. Anuroop P.S., Advocate.

versus

DELHI METRO RAIL CORPORATION AND ORS

....Respondents

Through: Mr. Tarun Johri and Mr. Sanjay Kute,
Advocates for R-1/DMRC.
Mr. Arjun Pant, Advocate for R-2/DDA
Mr. Naveen Kumar Raheja, Advocate for
R-3.

CORAM:

HON'BLE MR. JUSTICE NAJMI WAZIRI

ORDER

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15.06.2020

1. The hearing was conducted through video conferencing.
2. Issue notice. The learned counsel named above accept notice on behalf of the respondents.
3. At joint request, the petition is taken up for disposal.
4. The petitioners claim to be decree holder apropos possession of property bearing Khasra No. 146 admeasuring 08 bigha 07 biswas situated in the Revenue Estate of village Kotla Maigran, Delhi. The relevant portion of the decree in Suit No. 863/2006 dated 26.09.2013 reads as under:-

“ ...

... ”

16. In a simple suit for injunction, the dispute of title may not be gone into and it is the factum of settled possession

that is to be seen. A person in possession is entitled to protection against everyone except the true owner. DW2 has admitted the possession of the plaintiff. Even PW1 was put a suggestion that he was an encroacher over the suit property. He was also suggested that his possession has been disturbed many a times but this is not the case of DDA in the written statement, nor any evidence has been led to show that the possession of the plaintiff was indeed disturbed.

...
...”

5. A suit was initially filed against the petitioners’ apprehension of dispossession by the DDA and Commissioner, MCD, Jt. Water & Sewage Board.
6. The petitioners’ apprehend that they would be dispossessed by the DMRC apropos their commercial development in the petitioners’ land. It is not in dispute that the petitioners have already filed another suit seeking the same relief which they have prayed for in this petition. Furthermore, they have the aforesaid decree in their favour. It will be open to the petitioners to pursue their rights as per procedure prescribed in law.
7. In view of the above, the petition, alongwith pending applications, stands dismissed as withdrawn with liberty to approach the Court in alternating circumstances.
8. The order be uploaded on the website forthwith. Copy of the order be also forwarded to the counsels through email.

NAJMI WAZIRI, J

JUNE 15, 2020/RW