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

+ **W.P.(C) 4205/2018**

SH. JAGPAL SINGH YADAV

..... Petitioner

Through: Mr. Praveen Yadav, Advocate.

versus

DELHI DEVELOPMENT AUTHORITY AND ORS..... Respondents

Through: Ms. Mrinalini Sen, Standing counsel
for respondent no. 1.

Mr. Y.S. Chauhan, Advocate for
respondent no. 2 with respondent no.
2 in person.

Mr. Jawahar Raja, ASC with
Mr. Archit Krishna, Advocates for
respondent no. 3.

CORAM:

HON'BLE MR. JUSTICE RAJIV SHAKDHER

ORDER

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24.02.2020

1. The substantive prayer made in the writ petition is as follows:-

“ A. Issue a writ of mandamus thereby directing respondent no. 1 to demolish the illegal and unauthorized construction on the land near Balmiki Mandir, Sayeed Nangloi Village, Paschim Vihar, Delhi-110087 in furtherance to the demolition orders already been passed as the same is totally not permissible as per law being government/public utility land; ”

2. The respondent no. 1/DDA has placed on record two status reports, one, which is, dated 12.09.2018 and the other, which is, dated 07.05.2019.

3. As per the second status report, the subject area (i.e. land near Balmiki Mandir, Sayeed Nandloi Village, Paschim Vihar, Delhi-110087) *qua* which relief is sought by the petitioner falls in the two Khasra Nos i.e. Khasra No. 95/1 and 95/2.

4. Insofar as land falling in the Khasra No. 95/2 is concerned, the respondent no. 1/DDA claims ownership. This parcel of land according to respondent no. 1/DDA admeasures 01 Bigha 12 Biswas and was acquired vide award no. 2202, for the planned development of Delhi.

4.1 According to the respondent no. 1/DDA, the said land was placed at its disposal pursuant to notification bearing no. 8(49)/63/L&B, dated 29.04.1972.

4.2 To be noted, respondent no. 1/DDA has filed a site plan which demarcates the land which falls in Khasra No. 95/2.

5. Respondent no. 2, who, is the brother of the petitioner i.e. Krishan Pal claims a right in the parcel of land which falls in Khasra No. 95/1.

6. According to respondent no. 1/DDA, respondent no. 2 had encroached on the land acquired by it i.e. Khasra No. 95/2. The encroachment, as per respondent no.1/DDA covers an area of approximately 200 sq yards. *Qua* this piece of land, respondent no. 1/DDA, it appears filed a complaint with the SHO, PS, Miawali Nagar, on 24.12.2018.

7. Mr. Y.S. Chauhan, who, appears on behalf of respondent no. 2 on instructions of the said respondent, who, is present in Court, says

that the respondent no. 2 will have no objection in respondent no.1/DDA clearing encroachment in respect of land which falls in Khasra No. 95/2.

8. However, counsel for respondent no. 2 says that demarcation of Khasra No. 95/2 may have to be carried out.

9. Ms. Sen, on the other hand, says that if there is any objection *qua* the demarcation that aspect can be raised by respondent no. 2 before the appropriate authority.

9.1. I tend to agree with the submission of Ms. Sen.

10. Accordingly, the writ petition is disposed of with a direction to respondent no.1/DDA to clear the encroachment, if any, found on the parcel of land which falls in Khasra No. 95/2.

11. Liberty is, however, given to respondent no. 2 to raise the issue of demarcation, if he deems it fit, before the appropriate authority.

RAJIV SHAKDHER, J

FEBRUARY 24, 2020

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