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

% *Date of Decision : 30th November, 2021*

+ W.P.(C) 13543/2021

CIVILIAN WELFARE CHARITABLE TRUST REGD THROUGH
ITS CHAIRMAN MOHD KAMRAN Petitioner

Through: Mr. Sujit Kishore Bhattacharya,
Ms. Seema Sharma & Mr. Daood Ahmed,
Advocates.

versus

UNION OF INDIA & ORS. Respondents

Through: Mr. Syed Husain Adil Taqvi,
Government Pleader with Mr Farman Ali and
Mr. Athar Raza Farooquei, Advocates for R-1.

Mr. Wajeeh Shafiq, Standing Counsel with
Ms. Ramsha Shan, Ms. Sabika Ahmed, Advocates
with Ms. Shaista Siddiqui, Law Officer (DWB) for
R-4.

Mr. Akhil Mittal, Standing Counsel (NDMC) with
Mr. Hardik Aggarwal, Advocate for R-8.

Mr. Ashim Vachher & Mr. Kunal Lakra,
Advocates for R-9.

Mr. Hashmat Nabi & Mr. Farah Naaz, Advocates
for R-10.

CORAM:

HON'BLE THE CHIEF JUSTICE

HON'BLE MS. JUSTICE JYOTI SINGH

JUDGMENT

: **D. N. PATEL, Chief Justice (Oral)**

CM APPL.42742/2021 (exemption)

Allowed, subject to all just exceptions.

Application is disposed of.

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W.P.(C) 13543/2021 & CM APPL.42743/2021 (Stay)

1. Present writ petition, styled as Public Interest Litigation, has been preferred seeking the following reliefs:-

“A. Issue Direction to respondents to construct and develop a senior secondary girls school with all the modern day amenities on plot bearing no.2438-2443 Kamra Bangash, Main Road, Tiraha Behram Khan, Darya Ganj Opposite Khajoor Wali Masjid Delhi 110006.

B. Issue Directions to respondent no. 1 introduce norms and standard of inclusive education of girl child within the ambit of the RTE ACT.

C. Issue Directions to the respondents to take appropriate action for removing illegal occupants/encroachers from plot bearing no. 2438-2443 Kamra Bangash, Main Road, Tiraha Behram Khan, Darya Ganj Opposite Khajoor Wali Masjid Delhi 110006.

D. Issue directions to the respondents to take appropriate action for removing tenants with immediate effect from plot bearing no.2438-2443 Kamra Bangash, Main Road, Tiraha Behram Khan, Darya Ganj Opposite Khajoor Wali Masjid Delhi 110006.

E. Issue directions to the respondents to protect the land from tenants/transfer of tenancy/encroachment/sale and purchase with immediate effect from plot bearing no.2438-2443 Kamra Bangash, Main Road, Tiraha Behram Khan, Darya Ganj Opposite Khajoor Wali Masjid Delhi 110006.

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

2. We have heard learned counsels appearing on behalf of the Petitioner as well as Respondents No.4 and 8.

3. From the pleadings in the writ petition itself it is evident that both Respondent No.4 as well as Respondent No.8 are claiming ownership rights

in the property in question, which is situated at Plot No.2438-2443, Kamra Bangash, Main Road, Tiraha Behram Khan, Darya Ganj, Opposite Khajoor Wali Masjid, Delhi-110006. Even the documents appended to the writ petition evidence an ownership dispute between the aforesaid Respondents. Annexure P-6 is a response to an RTI application dated 30.01.2020, furnished by North Delhi Municipal Corporation on 18.02.2020, according to which NDMC claims to be the owner of the property as per the record of the Department of Land and Estate.

4. Compared and contrasted to Annexure P-6, is an affidavit filed by Wakf Board in writ petition being W.P.(C) 13235/2018 (Annexure P/3 to the Memo of this petition), wherein claim to ownership of the subject property was asserted by the Wakf Board, which was Respondent No.3 in the writ petition. Petitioner has also placed on record a copy of the judgment dated 13.09.2019 passed by this Court in the aforementioned writ petition, (Annexure P/4), wherein, a statement was made on behalf of GNCTD/Respondent No.2 therein that the plot in question belonged to the Wakf Board/Respondent No.3 therein.

5. A plain reading of the writ petition and the annexures appended thereto makes it obvious that the petitioner is clearly conscious of the fact that there is a dispute with regard to ownership of the subject property and has yet chosen to file the present petition. It is a settled law that disputed questions of fact, more particularly, ownership disputes cannot be adjudicated in a writ jurisdiction as the same would require evidence, both oral and documentary. Till the dispute of ownership of the subject property is not resolved, this Court cannot give a direction to the Respondents to construct and develop a Senior Secondary Girls School, with all modern day

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amenities over the plot in question, as sought for by the Petitioner, in the present writ petition.

6. In view of the aforesaid, we do not see any reason to entertain this writ petition. The same is accordingly dismissed with costs of Rs.10,000/- to be paid by the Petitioner to the Delhi State Legal Services Authority, within a period of six weeks from today. The aforesaid amount shall be utilized for the programme 'Access to Justice'.

7. Pending application is also disposed of.

8. A copy of this order be sent to the Member Secretary, Delhi State Legal Services Authority, Patiala House Courts, New Delhi- 110001.

CHIEF JUSTICE

JYOTI SINGH, J

NOVEMBER 30, 2021

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