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

Date of Decision: 1st February, 2022

+ **C.R.P. 13/2019 & CM APPL. 979/2019**

PARVEZ NOOR Petitioner
Through: Mr. Anuj Kumar Garg, Advocate.
versus

DELHI WAQF BOARD Respondent
Through: Mr. Wajeeh Shaifq, Standing Counsel
with Ms. Ramsha Shan, Ms. Sabika
Ahmad, Advocates along with Ms.
Shaista Siddiqui, Law Officer, DWB.

CORAM:
JUSTICE PRATHIBA M. SINGH

Prathiba M. Singh, J.(Oral)

1. This hearing has been done through video conferencing.
2. The costs of Rs.10,000/- in terms of previous order dated 10th November, 2021 are stated to have been paid. Mr. Wajeeh Shafiq, Id. Standing Counsel for the Respondent/Delhi Waqf Board acknowledges the same.
3. The present revision petition has been filed challenging the order dated 29th September, 2018 passed by the Ld. Presiding Officer, Wakf Tribunal, New Delhi (*hereinafter, "Trial Court"*) in *Suit No.ML/82/2016 (Old Suit No.12/2007)* titled *Parvez Noor v. Delhi Waqf Board*. The case of the Petitioner is that the suit property was not a Waqf property, and the Delhi Waqf Board has no right, title and interest to interfere in the use and occupation of the suit property with the Plaintiff.
4. The petition arises out of a suit filed by the Petitioner in respect of



property bearing no. A-389/A, Amar Puri, Nabi Karim, Pahar Ganj, New Delhi, admeasuring about 200 sq. yards. (hereinafter, “suit property”). The reliefs sought in the said suit are as under:

“i) issue Decree of Declaration in favour of the plaintiff and against the defendant declaring to the effect that the order bearing No.12/SO/468/DWB/2006/685 dated 05.05.2007 passed by Shri S.M. Ali, Chief Executive Officer, Delhi Wakf Board, Government of NCT of Delhi, New Delhi, is illegal, void ab-initio and liable to be set-aside;

ii) issue Decree of Declaration in favour of the plaintiff and against the defendant declaring to the effect that the plaintiff is the absolute legal owner of land/property bearing No.A-389/A, Amar Puri, Nabi Karim, Pahar Ganj, New Delhi situated in an area measuring about 200 sq. yds. and that since the said suit land/property is not a wakf property, Delhi Wakf Board has no right, title or interest to interfere in the use, occupation and possession of the said suit land/property by the plaintiff;

iii) pass a Decree of Permanent Injunction in favour of the plaintiff and against the defendant, its agents, servants assigns, etc. restraining it from interfering in the use, occupation and possession of the said suit land by the plaintiff and from disturbing the settled possession of the plaintiff qua the said suit land in any manner whatsoever except due process of law;

iv) cost of the suit may also be awarded in favour of the plaintiff and against the defendant;

v) such other or further order which this Hon’ble Court may deem fit and proper under the facts and circumstances of the case be also passed in favour of the plaintiff and against the defendant.”



5. The following issues were framed by the Trial Court:

“1. Whether the suit is maintainable as per provisions of Wakf Act, 1995?

OPP

2. Whether the impugned order dated 05.05.2007 passed by Chief Executive Officer, DWB is illegal and liable to be set aside? OPP

3. Whether the plaintiff has any right, title or interest in the suit property? OPP

4. Whether the suit is properly valued? OPD

5. Relief.”

6. The findings of the Trial Court on each of the issues are as under:

Issue No.1:

On the strength of Section 54 of The Waqf Act, 1995 (*hereinafter, “Act”*) and non-compliance of the Section 89 of the Act, the Trial Court has held that the suit was maintainable. Accordingly, Issue No.1 was decided in favour of the Plaintiff.

Issue No.4

Insofar as valuation of the suit property is concerned, the Trial Court held that the Defendant has failed to discharge the onus in respect of this issue. Accordingly, Issue No.4 was also decided in favour of the Plaintiff.

Issue No.2 & 3

Insofar as Issue Nos. 2 and 3 relating to the title of the Plaintiff in the suit property is concerned, the Trial Court came to the conclusion that the Plaintiff is in unauthorized and unlawful occupation of the suit property which belongs to the Delhi Waqf Board, and no ownership rights vests in the Plaintiff in respect of the suit property. In view of the said finding, the suit of the Plaintiff was dismissed by the Trial Court by a detailed judgment



dated 29th September, 2018. The finding of the Trial Court is extracted below:

“8.22 Therefore this Tribunal has no hesitation in concluding that the plaintiff is, has been in unauthorized, unlawful occupation of the suit property which belongs to the Delhi Wakf Board (defendant). No ownership rights vest with the plaintiff in the suit property. No question arises of the plaintiff having acquired title by way of adverse possession. In fact no such plea can be taken by the plaintiff as it is shield/line of defence and not sword/line of attack. This Tribunal finds no infirmity in the impugned order as it is crystal clear from the same that ample opportunities were provided to the plaintiff to justify his occupation, possession of the suit property. As before this Tribunal, so before the CEO, Delhi Wakf Board plaintiff failed to justify his occupation, possession of the suit property. Plaintiff has no right, title or interest in the suit property. Therefore the impugned order was rightly passed, after giving him due opportunity. Plaintiff is also not entitle to any relief of injunction. Therefore in view of above discussion, issue no.2 and 3 are decided against the plaintiff.”

7. Today, Mr. Anuj Kumar Garg, Id. Counsel appearing for the Petitioner submits that the suit property is the subject matter of **W.P.(C) 2901/2014** titled **Indraprastha Vishva Hindu Parishad & Ors. v. Union of India & Ors.**, wherein vide order dated 20th August, 2014, the Id. Division Bench of the Delhi High Court has directed that the representation in respect of various properties ought to be considered by the Government and the decision in respect thereof shall be taken after giving an opportunity of hearing to all stakeholders. In the meantime, *status quo* in respect of the possession of the land would operate. The said order dated 20th August,



2014 reads as under:

“Shri Sanjay Jain, the learned ASG who appeared on advance notice represented on instructions that the issue involved in this writ petition has already been taken note of by the Respondent No.1 and 2 and the same is under active consideration. It is also represented that the present writ petition will be treated as a representation and the grievance of the petitioners will also be considered and appropriate decision will be taken at the earliest.

The statement of the learned ASG is placed on record and the writ petition is accordingly disposed of leaving it open to the respondents No.1 and 2 to take an appropriate decision after giving an opportunity of hearing to all the stakeholders, particularly the respondent No.4/Delhi Waqf Board. Till such time, status quo obtaining as on today with regard to the possession of the land in question shall be maintained.”

8. Mr. Garg admits that the suit property is part of the properties which notified on 5th March, 2014 and that the benefit of the order dated 20th August, 2014 in **W.P.(C) 2901/2014**, ought to be given to the Petitioner. As per Mr. Shafiq, Id. Standing Counsel for the Respondent-Delhi Waqf Board, the suit property is part of the Gazette Notification which was issued on 5th March, 2014. In effect therefore, due to the stand of Mr. Garg today, the Petitioner can no longer challenge the fact that the suit property is not Waqf property. Mr. Shafiq, also submits that as per Item Nos. 56 and 57 in the said notification, the suit property was placed with the Waqf Board.

9. Ld. Counsels for both the parties submit that the benefit of the order dated 20th August, 2014 would enure to the Petitioner in the present case. In view of the same, this Court directs that the upon culmination of the



proceedings, pursuant to the order dated 20th August, 2014 in ***W.P.(C) 2901/2014***, the same would be binding upon the parties concerned. Till then, the protection extended by the said order would extend to the Petitioner in the present case.

10. The present petition no longer survives, and is accordingly disposed of. All pending applications are also disposed of.

11. Any order of execution which is passed by the Delhi Wakf Board would be strictly in accordance with the orders passed by the Id. Division Bench in the said writ petition being ***W.P.(C) 2901/2014***.

12. Mr. Shafiq also submits that ***W.P.(C) 1961/2022*** titled ***Delhi Waqf Board v. Union of India & Ors.*** has also been filed in respect of the suit property. Since this Court is not concerned with the said writ petition, it is made clear that no observations are being made in that regard.

PRATHIBA M. SINGH
JUDGE

FEBRUARY 1, 2022
Rahul/AD