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

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Decision delivered on: 13.09.2022+ **LPA 131/2020, CM Nos.9453/2020 & 9457/2020****SHRI SANT RAM & ORS** Appellants

Through: Mr Arvind Chaudhary, Adv.

*versus***GOVT OF NCT OF DELHI & ORS** Respondents

Through: Mr Archit Krishna, Adv. for Mr Jawahar Raja, Adv. for R-1 to 5.

Mr Tushar Sannu, Standing Counsel with Ms Priyanka Sinha, Adv. for R-6/MCD.

Mr Abhay Kumar and Mr ShagunRuhil, Adv. for R-7/TPDDL.

Mr S.N. Gupta, Adv. for R-8.

CORAM:**HON'BLE MR. JUSTICE RAJIV SHAKDHER****HON'BLE MS. JUSTICE TARA VITASTA GANJU**

[Physical Court hearing/ Hybrid hearing (as per request)]

RAJIV SHAKDHER, J. (ORAL):

1. This appeal is directed against the judgment dated 04.12.2019, passed by the learned Single Judge. By way of the impugned judgment, the learned Single Judge had directed the official respondents to demolish/remove illegal encroachments, within four months from the passing of the said judgment.

1.1. Furthermore, the learned Single Judge had also directed the official respondents to ensure that no further encroachment should be allowed in the subject area.

2. Learned counsel appearing for, both, the official respondents, as well as the private respondents, concede that the issue before the learned Single Judge was confined to the encroachment on a particular road in the subject area, which is referred to as "Tau Bihari Marg".



3. The appellants were, concededly, not parties before the learned Single Judge.

3.1. The appellants, however, claim that they have built their houses and have been living in the vicinity of the aforementioned road for several decades.

4. It is also the assertion of the appellants, made *via* their counsel, i.e., Mr Arvind Chaudhary, that their houses do not extend onto the aforementioned road.

5. As indicated by this Court *via* the order dated 07.04.2022, the official authorities would have to inquire, as to whether the houses built by the appellants extend onto the aforementioned road.

6. Given these circumstances, Mr Chaudhary has indicated to us that the appellants would be happy, if such an inquiry is carried out by the official respondents and thereafter, consequent steps are taken, in consonance with the directions of the learned Single Judge.

6.1. In other words, Mr Chaudhary says that if the houses of the appellants extend onto the road referred to above, then, certainly, the extensions or encroachments on the road, which is a public asset, would have to be removed.

6.2. Thus, in effect, Mr Chaudhary's submission is that this appeal should be treated as an official representation to the official respondents and be disposed of, after the inquiry is made, in that behalf.

7. The record shows that on 11.03.2020, the coordinate Bench of this Court had stayed the operation of the impugned judgment.

7.1. Resultantly, the timeframe accorded by the learned Single Judge for the removal of illegal encroachments, has expired in the meanwhile.



8. It is a common case of the parties, that encroachments on the public road are clogging the traffic in the subject area.

8.1. Therefore, keeping in mind the submissions made before us by learned counsel for the parties, which includes the official respondents, the appeal is disposed of, with the following directions:

- (i) The official respondent(s) will treat the instant appeal, as a representation.
- (ii) The official respondent(s) will grant a personal hearing to the appellants and grant them an opportunity to place on record relevant documents concerning their houses/properties, to demonstrate title and possession.
- (iii) The official respondents will be at liberty to carry out a physical inspection of the subject site, to ascertain, as to whether or not the houses of the appellants extend onto the aforementioned road.
- (iv) In case, the inquiry carried out by the official respondents reveals that the houses/properties of the appellants extend onto the aforementioned road, then, notwithstanding the ownership of the house/properties, to the extent that there are extensions onto the road, they shall be removed.
- (v) Due opportunity will be given to the appellants and/or such encroachers, to remove that part of the house/property, which extends onto the road, on their own, so that there is the least amount of damage caused to the structure.
- (vi) In case, the appellants and/or encroachers fail to take corrective measures within the timeframe set forth by the official respondents, [which would necessarily have to be reasonable], the official respondents will be at liberty to take requisite steps, in that behalf.



(vii) For this purpose, the appellants will appear before the concerned authority on 13.10.2022, at 11:00 A.M. The appellants will carry the relevant documents to the hearing.

(viii) After the hearing is concluded, the official respondent(s) will act in terms of the directions issued hereinabove.

(ix) The entire exercise will be completed by the official respondent(s) within the next four months.

(x) The interim order dated 11.03.2020 will continue to operate up until 13.01.2023.

(xi) We also make it clear that, in case, there are other instances of such like nature, a similar regime, as has been set out hereinabove, will be followed. The official respondents will, thus, notify all those, who are similarly circumstanced. Appropriate inquiry, concerning their houses/properties will also be carried out and steps will be taken in line with the directions issued hereinabove. In case of any difficulty, such parties will be at liberty to file objections, which will be disposed of, by the concerned authority, *via* a speaking order.

9. The appeal is disposed of, in the aforesaid terms.

9.1. Consequently, the pending applications shall also stand closed.

10. Parties will act, based on the digitally signed copy of the order.

(RAJIV SHAKDHER)
JUDGE

(TARA VITASTA GANJU)
JUDGE

SEPTEMBER 13, 2022/ aj