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

% *Decided on: 19th January, 2023*

\+ W.P.(C) 657/2023 & CM APPL. 2554/2023

INDRAJ AND OTHERS ..... Petitioners

Through: Mr. Deepak Khosla with Mr. Anuroop P.S. Advocates. (M): 9582818838

Email: adv.anuroop@gmail.com

versus

GOVT. OF NCT OF DELHI AND OTHERS ..... Respondents

Through: Mr. Anupam Srivastava, ASC. (M): 9811032151

CORAM:
HON'BLE MS. JUSTICE MINI PUSHKARNA
[Physical Hearing/ Hybrid Hearing]

MINI PUSHKARNA, J. (ORAL):

CM APPL. 2554/2023 (Application under Section 151 CPC seeking exemption from filing certified/typed copy of documents annexed with the petition)

1. This is an application under Section 151 CPC seeking exemption from filing certified/typed copy of documents.

2. Allowed, subject to just exceptions.

3. Application is disposed of.

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4. By way of the present petition, the petitioner has challenged the order dated 06.04.2021 issued by the Tehsildar (Sarita Vihar).

5. It is contended that Tehsildar (Sarita Vihar) by way of impugned order has rejected the application of the petitioner for demarcation of his area.

6. It is submitted that the petitioner by application dated 01.02.2021 had requested for demarcation of Khasra No. 146 measuring 8 bighas and 07 biswas and Khasra No. 164 (00-12) situated in the revenue estate of Village Kotla Maigiran, New Delhi. Thereafter, the petitioner had issued reminder dated 24.11.2020 followed by reminder dated 01.02.2020. Subsequently, by the impugned letter dated 06.04.2021, the Tehsildar (Sarita Vihar) has rejected the application of the petitioner for demarcation of the land in question on the ground that the petitioner was not the recorded owner/Bhumidar of the land in question.

7. Learned counsel appearing for the petitioner has drawn the attention of this Court to Section 28 of the Delhi Land Revenue Act, 1954 (DLR Act) to contend that all disputes regarding boundaries are to be decided by the Deputy Commissioner, on the basis of the existing survey maps. In case, that is not possible, then boundaries are to be fixed on the basis of actual possession.

8. He further submits that as per Rule 403 of the Delhi Land Revenue Rules, the disposal of disputes with respect to the applications for demarcation of the boundary disputes under Section 28 are to be entertained and disposed of by the Revenue Assistant. Thus, he submits that the impugned order dated 06.04.2021 issued by the Tehsildar (Sarita Vihar),was without any jurisdiction.

9. Issue notice.

10. Notice is accepted by learned Additional Standing Counsel for Delhi Government.

11. He at the outset submits that since in the present matter the

impugned order dated 06.04.2021 has been passed by the Tehsildar (Sarita Vihar), the petitioner should seek his remedy by filing an appeal before the Deputy Commissioner under Section 64 of the Delhi Land Revenue Act, 1954. Thus, he submits that the present writ petition is not maintainable.

12. This Court has considered the submissions made on behalf of both the parties. With the consent of the parties, the matter is taken up for disposal.

13. Perusal of Rule 403 of the Delhi Land Revenue Rules, 1962 shows that for disposal of disputes with respect to demarcation of boundary disputes under Section 28 of the Delhi Land Revenue Act, 1954, the Revenue Assistant/SDM of the area in question is the Authorised Officer. Rule 403 of the Delhi Land Revenue Rules is reproduced as under:-

> *"403. Disposal of disputes (1) The applications for demarcation of boundary disputes under Section 28 shall be entertained and disposed of by the Revenue Assistant. No application shall be entertained unless it is accompanied by a certified extract from the map and Khasras on the basis of which demarcation is sought*
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> *(2) Proceedings for the settlement of boundary disputes shall be disposed of through the land records staff"*

14. Thus, it is clear that the impugned letter dated 06.04.2021 as issued by the Tehsildar (Sarita Vihar) is clearly without any jurisdiction as the requisite jurisdiction vests with the Revenue Assistant/SDM for purposes of deciding disputes with respect to demarcation of boundary disputes.

15. In view of the aforesaid, the letter dated 06.04.2021 issued by Tehsildar (Sarita Vihar) is set aside.

16. It is directed that the applicaition dated 15.06.2020 followed by reminders dated 24.11.2020 and 01.02.2021 for demarcation of khasra no. 146 measuring 8 bighas and 07 biswas and khasra no. 164 (00-12) situated in the revenue estate of Village Kotla Maigiran, New Delhi shall now be considered by the concerned SDM of Sarita Vihar/Revenue Assistant in terms of the DLR Act, 1954 and the Delhi Land Revenue Rules, 1962.

17. It is directed that the applications filed on behalf of the petitioner shall be considered and decided by the concerned Revenue Authority expeditiously, preferably within a period of 3 months from today. Further, it is also directed that before adjudicating upon the applications for demarcation filed on behalf of the petitioner, the petitioner shall also be given liberty for personal hearing and opportunity to submit any documents that may be relevant for the purpose.

18. With the aforesaid observations, the present writ petition is disposed of.

MINI PUSHKARNA, J

JANUARY 19, 2023
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