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

% *Date of decision: February 2, 2023*

+ **CONT.APP.(C) 6/2023 & CM APPLs. 5031-5032/2023**

INDER SINGH SOLANKI

..... Appellant

Through: Mr. Arvind Nigam Sr.
Advocate along with Mr.
Gurinder Pal Singh, Ms. Jaya
Bajpai and Mr. Bakshinder
Singh, Advocates.

versus

DEVENDER SEHRAWAT & ORS.

..... Respondents

Through: Mr. Ayaz Sattar and Ms. Kajal
Sehrawat, Advocates for R-1.
Mr. Rajan Tyagi Standing
Counsel with Ms. Vijeta
Mukherjee, Advocate for R-2
and R-3.

CORAM:

HON'BLE MR. JUSTICE SURESH KUMAR KAIT

HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA

J U D G M E N T (oral)

CM APPL. 5032/2023 (Seeking Exemption)

1. Allowed, subject to just exceptions.
2. The application is disposed of.

CONT.APP.(C) 6/2023 & CM APPL. 5031/2023

3. An appeal under Section 19 of the Contempt of Court Act has been filed on behalf of the appellant seeking following reliefs :

“(a) call for the records of the case and peruse the same.

(b) *set aside the Order dated 30.1.2023 passed by the Learned Single Judge in Cont. Cas. (C) No. 1330 of 2022.*

(c) *such other or further orders as this Hon'ble Court may deem fit and proper on the facts and circumstances of the case in the interest of justice may also be passed."*

4. Pertinently, this Court on 18.01.2023 had directed as under :-

"Learned counsel appearing on behalf of the appellant submits that the construction is on Khasra No.188 and not on Khasra No.185 as submitted by the respondents. The Site Plan submitted by the respondents shows that Khasra No.188 is on the main road and Khasra No.185 is across the road. It is not in dispute that the Division Bench of this Court allowed the appellant to construct on his own Khasra No.188 and even thereafter Hon'ble Supreme Court has also observed this and allowed to continue the construction on Khasra No.188."

5. Since, there was a dispute as to whether the appellant herein is carrying on construction on Khasra No.185 or Khasra No.188, learned Single Judge was requested to keep the Contempt Order in abeyance and decide the Writ Petition first. Since there was a dispute with regard to Khasra, we further made it clear that if subsequently it comes on record that the appellant is constructing on Khasra No.185 instead of Khasra No.188, he shall face the consequences as per law.

6. The allegations against the appellant is not that he is constructing on Khasra No.188 but that he is encroaching Khasra No.185. Consequently, learned Single Judge has directed the SDM to carry out demarcation on 02.02.2023.

7. The grievance of appellant is that since the order passed in the Contempt Petition has been directed to be kept in abeyance, despite which

the learned Single Judge has further passed order for demarcation.

8. Apparently, the learned Single Judge vide order dated 30.10.2022 has mentioned that the demarcation is scheduled for 02.02.2023 and has directed the appellant to obtain clarification from this Court if the demarcation of Khasra No.185 and Khasra No.188 has been stayed.

9. Relevantly, while passing order dated 18.01.2023 our intention was not to and does it mention anywhere that learned Single Judge shall not take on record the Demarcation Report made by the SDM. We further make it clear that if the demarcation report comes on record in the contempt proceedings, that would be treated in writ petition and the writ petition shall be decided first instead of taking coercive steps against the appellant in the Contempt Petition.

10. In view of the above, the appeal is disposed of.

11. Pending applications, if any, also stand disposed of.

(SURESH KUMAR KAIT)
JUDGE

(NEENA BANSAL KRISHNA)
JUDGE

FEBRUARY 02, 2023

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