

\$~5

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

% *Decided on: 5th January, 2023*

+ **W.P.(C) 17703/2022**

**MS RANGOLI RESORTS PRIVATE LIMITED
& ANR.**

..... Petitioners

Through: Mr. Vivek Kohli, Sr. Advocate
with Mr. Sunil Tyagi,
Mr. Naman Dutt, Mr. J. Rawal,
Advocates (Ph. 9999960283)

versus

**GOVERNMENT OF NATIONAL CAPITAL TERRITORY
OF DELHI & ORS.**

..... Respondents

Through: Mr. Rishikesh Kumar, ASC,
GNCTD with Ms. Sheenu
Priya, Mr. Sudhir Shukla,
Mr. Aditya Raj,
Mr. Muhammad Zaid,
Advocates for respondents /
GNCTD (Ph. 9911483629,
e-mail: officeofadvrshikeshku
mar@gmail.com)

**CORAM:
HON'BLE MS. JUSTICE MINI PUSHKARNA**

[Physical Hearing/ Hybrid Hearing]

MINI PUSHKARNA, J. (ORAL):

CM APPL. 56565/2022

1. This is an application under Section 151 CPC seeking exemption from filing certified/ true/ legible copies of the orders.
2. Exemption is allowed subject to just exceptions.

3. Application is disposed of accordingly.

W.P.(C) 17703/2022 and CM APPL. 56564/2022

4. The present writ petition has been filed on behalf of the petitioners praying for issuance of writ of mandamus directing the respondents to restore the demolished boundary wall or in the alternative, it is prayed that the petitioner may be allowed to construct, by way of ad-interim measure, the demolished boundary wall of the House No. E-3, Village Asola, Mehrauli, New Delhi till the completion of demarcation process in the village Asola.

5. It is the case of the petitioner that they have been in peaceful physical possession of the subject property for almost 30 years until in March, 2018, the respondent No. 2 on the basis of Notification issued by respondent No. 2 in February, 2018, started the demolition drive in village Asola. During the demolition drive, the respondent No. 2 had illegally demolished a boundary wall of the subject property. The issue with respect to the illegal demolition done by the Respondent No.2 was subject matter of the Writ Petition No.7715/2018, titled 'Rangoli Resorts Pvt. Ltd. & Anr. vs. Government of NCT of Delhi'.

6. Vide order dated 26.07.2018 in W. P. (C) 7715/2018, this Court had given directions to the petitioners herein to approach the concerned Deputy Commissioner challenging the demarcation conducted on the property of the petitioner No. 1. Further, this Court had also granted status quo with regard to the construction of the Wall by respondent Nos. 1 to 4 in the said writ petition.

7. It is submitted that since the order dated 26.07.2018 as passed

in W.P.(C) 7715/2018, the petitioner No. 2 and his family have been residing in the subject property with no concrete boundary wall at one side. It is submitted that there is a makeshift temporary fence at the site of the demolished boundary wall, which is not effective or proper to provide any safety or security to the petitioner No.2 and his family, as animals/reptiles can easily enter the premises of the subject property through it.

8. It is further submitted that Asola Homes Welfare Association had filed writ petition in the year 2022 being W.P. (C) 8052/2022, titled as 'Asola Homes Welfare Association & Anr. vs. Government of NCT of Delhi'. It is submitted that the petitioner was also a part of the said association. Attention of this Court has been drawn to the list wherein name of the petitioner is reflected at serial No. 29. It is submitted that by way of said writ petition filed on behalf of the Asola Homes Welfare Association, it had been prayed for the demarcation of the forest land and other land in village Asola, and for direction to the respondents not to carry out the demolition of any portion of lands owned by the members of the Association, till fresh demarcation is carried out. It is submitted that vide Order dated 23.05.2022 in W.P. (C) 8052/2022, this Court was pleased to grant interim relief along with status quo to the Association with regard to the boundaries of the respective writ petitioners by observing that till the pendency of application before the Deputy Commissioner, no coercive action shall be taken against the members of the Asola Homes Welfare Association. It is, thus, submitted that status quo with respect to the

boundaries of the respective members of Asola Homes Welfare Association was directed to be maintained.

9. Learned Additional Standing Counsel, on behalf of Delhi Government appears on advance notice and vehemently opposes the present petition. He submits that main prayer in the present writ petition is with respect to allowing the petitioner to restore the demolished boundary wall or allowing the petitioner for ad-interim construction of the demolished boundary wall. He submits that the main prayer as well as the interim prayer by way of CM APPL. 56564/2022 are similar in nature. Thus, he submits that in case any interim order is allowed in favour of the petitioner, that would tantamount to allowing the final prayer in the writ petition itself, which cannot be allowed at the interim stage itself. He further submits that any order passed by this Court by way of any interim direction, would be in the nature of review of the earlier orders passed by this Court, wherein this Court has directed that status quo be maintained with respect to boundaries of the various residents of Asola village. He further submits that the respondent is not allowing construction of any concrete structure and that status quo is being maintained by the respondents. He further submits that in terms of the earlier orders passed by this Court, no coercive action has been taken by the respondent against any of the residents of Asola Village including the petitioners herein. He submits that he has instructions to make a statement that the respondent shall take expedited steps for the purposes of carrying out the demarcation, as already directed by this

Court in the previous order.

10. After hearing both the parties, this Court is of the opinion that since directions have already been given to the respondent to carry out the demarcation proceedings, the respondent ought to complete the demarcation proceedings expeditiously. Directions are, thus, given to respondent to complete the demarcation process with respect to the land of the petitioner within a period of eight weeks from today. The petitioner shall be at liberty to construct the boundary wall after completion of the due demarcation process by the respondent within the period of eight weeks.

11. However, it is clarified that in case the respondent does not demarcate the land of the petitioner within a period of eight weeks, the petitioner shall be at liberty to construct a temporary boundary wall after expiry of eight weeks from today in order to secure the land under his possession. However, it is further clarified that construction of any temporary boundary wall by the petitioner after expiry of eight weeks shall not confer any equity in favour of the petitioner, in case after the demarcation process by the respondent, it is found that any land which has been temporary bounded by the petitioner is part of the forest land. In that eventuality, the Forest Department would have the right to take possession of the said forest land and the petitioner would have to reconstruct the boundary wall accordingly on the portion which falls within his private ownership and not on the land of the forest.

12. It is clarified that this Court has not given any finding on the

merits of the demarcation proceedings to be carried out by the respondent.

13. With the aforesaid observations, the present petition is disposed of along with all the pending application(s).

