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

% *Decided on: 13th February, 2023*

+ W.P.(C) 4890/2016 & CM APPL. 20403/2016, CM APPL. 7897/2019

ROHANI SATSANG PREM SAMAJ (RETD.) Petitioner
Through: Mr. Deepak Tyagi, Ms. Praveena Gautam, Mr. Aman Sanjeev Sharma, Mr. Pawan Shukla, Ms. Akanksha Tyagi, Ms. Indira Goswami, Advocates (M:99706073401)

versus

GOVT. OF NCT OF DELHI & ORS Respondents
Through: Mr. Santosh Kumar Tripathi, SC(Civil) GNCTD with Mr.Arun Panwar Pradyamn Rao, Mr. Utkarsh Singh, Advocates (M: 9818112250, email: scgnctd@gmail.com)

CORAM:

HON'BLE MS. JUSTICE MINI PUSHKARNA

[Physical Hearing/ Hybrid Hearing]

MINI PUSHKARNA, J. (ORAL):

1. The present writ petition has been filed with prayer for directions against the respondents thereby prohibiting them from illegal and forcibly taking possession of any portion of the land comprised in Khasra no. 34/23 min situated within the revenue estate of Village Narela, Delhi without due process of law.

2. By way of notice dated 25.04.2016 issued by the Office of the Block Development Officer (North), Registrar Office, Alipur, Delhi, various persons including petitioner herein was directed to remove the encroachment over Khasra No. 34/18/2 (1.12) of village Mamurpur.

The said notice is reproduced as below:

***“OFFICE OF THE BLOCK DEVELOPMENT
OFFICER (NORTH), REGISTRAR OFFICE, ALIPUR,
DELHI***

I.NO 570

Dt. 25.04.2016

NOTICE

The undersigned has been informed to direct that the permission for removal of encroachment over Khasra No.34//18/2 (1-12) of village Mamurpur has been approved by the District Magistrate (North) on 21.01.2016, hence you are asked to remove all your goods/articles otherwise the department shall remove the same on 29.04.2016 and this office will not be liable for the loss and damages.

***SD/-
(BLOCK DEVELOPMENT OFFICER)
(NORTH) ALIPUR, DELHI-***

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3. It is the contention on behalf of the petitioner that pursuant to the purported notice dated 25.04.2016, demolition action has been taken by the respondents. It is submitted that the said purported notice dated 25.04.2016 has never been served upon the petitioner.

4. Ld. Counsel relies upon Sections 84 and 86A of the Delhi Land Reforms Act, 1954 (DLR). The said Sections are reproduced as

below:

“84. Ejectment of persons occupying land without title. -
[(1)] A person taking or retaining possession of land otherwise than in accordance with the provisions of the law for the time being in force, and --

(a) Where the land forms part of the holding of a Bhumidhar or Asami without the consent of such Bhumidhar or Asami, or

(b) Where the land does not form part of the holding of a Bhumidhar or Asami without the consent of the Gaon Sabha,

shall be liable to ejectment on the suit of the Bhumidhar, Asami or Gaon Sabha, as the case may be and shall also be liable to pay damages.

[(2) Where any person against whom a decree for ejectment from any land has been executed in pursuance of a suit under sub-section (1) re-enters or attempts to re-enter upon such land otherwise than under authority of law, he shall be presumed to have done so with intent to intimidate or annoy the person in possession or the Gaon Sabha, as the case may be, within the meaning of section 441 of the Indian Penal Code. (45 of 1860).]

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86A. Ejectment by Revenue Assistant of persons occupying land without title. - *Notwithstanding anything contained in section 84,85 and 86, the Revenue Assistant also may, on receiving information or on his own motion, eject any person who is liable to be eject form any land on a suit of the Gaon Sabha under any of those section, after following such procedure as may be prescribed.”*

5. A perusal of the aforesaid Sections of the DLR Act, 1954 clearly show that the Revenue Assistant has the authority to take

action upon receiving any information or on his own motion take action for ejectment of any person who is liable to be ejected from any land of the Gaon Sabha, after following such procedure as may be prescribed.

6. Ld. Counsel for petitioner relies upon Rule 170 of the Delhi Land Reforms Rules, 1954 to submit that the prescribed procedure is given under Rule 170 of the Delhi Land Reforms Rules, 1954. Thus, he submits that since the said purported notice dated 25.04.2016 was never served upon the petitioner, therefore, any action taken by the respondents pursuant to the notice dated 25.04.2016 is illegal.

7. He further submits that the petitioner is a bona fide purchaser of the land in question and that there are two registered Sale Deeds in favour of the petitioner.

8. On the other hand, Mr. Santosh Tripathi, Ld. Standing Counsel appearing for the respondents vehemently refutes the submissions made in the present writ petition. He submits that action was taken by the respondents pursuant to a demarcation report, which clearly showed that the land in question belonged to Gaon Sabha. He further submits that demarcation report as such has not been challenged by the petitioner. Therefore, action has rightly been taken by the department on the basis of the demarcation report which shows that the land in question belongs to the Gaon Sabha and not to petitioner as such.

9. Ld. Standing Counsel also submits by relying upon the Gazette Notification dated 10.09.2021 issued by Land & Building Department, that land in question has become urbanised, by virtue of which Gaon

Sabha land stands transferred to the Revenue Department.

10. This Court has heard the parties.

11. A perusal of the pleadings and documents on record clearly shows that there is a demarcation report upon which the respondents have relied upon. As per the said demarcation report, land in question belongs to the Gaon Sabha. Reference in this regard may be made to Section 28 of the Delhi Land Revenue Act, 1954 which deals with settlement of boundary disputes. Further, reference may also be made to Section 54 of the Delhi Land Revenue Act, 1954, which stipulates that against an order passed under Section 28 of Delhi Land Revenue Act with respect to demarcation of the boundary, an appeal shall lie to the various revenue authorities as per the said Section.

12. In view of the aforesaid provision of law, this Court is of the view that as far as the demarcation report is concerned, the petitioner cannot challenge the same before this Court, as the relief claimed by the petitioner with respect to wrong demarcation being carried out by the respondents cannot be granted by this Court. The petitioner would have to approach the Revenue Authorities in terms of Section 54 of Delhi Land Revenue Act, 1954 in case the petitioner is aggrieved by any demarcation being carried out by the respondents.

13. Therefore, this Court is not commenting upon the demarcation report as relied upon by the respondents. No opinion has been expressed on the merits of the demarcation carried out by the respondents.

14. Assuming that the demarcation as carried out by the respondents is true and correct, the fact remains that the respondents

are required to follow the prescribed procedure in terms of Rule 170 of the Delhi Land Reforms Rule, 1954, in order to eject any person who may be occupying any land without title. Though in this case attention of this Court has been drawn to the notice dated 25.04.2016 issued by the Office of the Block Development Officer (North), Registrar Office, Alipur, Delhi-110036, at this stage, Mr. Santosh Tripathi, Ld. Standing Counsel for GNCTD to cut the controversy short, submits that the matter can be remanded back to the Revenue Assistant in order to give hearing to the petitioner in terms of Rule 170 of the Delhi Land Reforms Rules, 1954.

15. This Court in the case of *Anil Sagar Vs. Gaon Sabha Village & Ors*¹, had held that in case hearing has not been given to aggrieved person by the Revenue Assistant, then the matter has to be heard afresh by the Revenue Assistant. This Court had remanded back the matter in the said case.

16. Considering the submissions made before this Court, it is deemed expedient to remand the matter to the concerned Revenue Assistant to give opportunity of hearing to the petitioner on the notice dated 25.04.2016 in terms of Rule 170 of the Delhi Land Reforms Rules, 1954.

17. I am informed by Ld. Standing Counsel for the GNCTD that pursuant to the order dated 25.04.2016, demolition action has already been taken by the respondents. Be that as it may, this court has not granted any liberty to the petitioner to reconstruct in case any

¹ 2000 (56) DRJ 155

demolition action has already been taken by the respondents.

18. Ld. Counsel for petitioner submits that demarcation report as relied upon by the respondents was challenged by the petitioner by way of the amended writ petition which was allowed to be amended by way of order dated 27.09.2019. Thus, he submits that the period from 27.09.2019 till today, i.e., 13.02.2023 should be excluded from the period of limitation.

19. In view of the aforesaid submissions, the petitioner is granted liberty to raise plea with respect to limitation before the appropriate authority, which shall deal with the issue as per merits.

20. Upon remand, the Revenue Assistant is at liberty to decide all the issues that may be raised by the parties including whether or not the notice dated 25.04.2016 was served upon the petitioner including the issue of limitation.

21. The petition is disposed of in the aforesaid terms.

MINI PUSHKARNA, J

FEBRUARY 13, 2023

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