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

% *Decided on: 04th May, 2023*

+ W.P.(C) 7836/2016 & CM APPLs. 32389/2016 & 17401/2017

PREMWATI

..... Petitioner

Through: Mr. Anil Kumar, Mr. Narender
Kr., Advocates along with
petitioner-in-person

versus

GOVT OF NCT OF DELHI AND ORS. Respondents

Through: Mr. Anupam Srivastava, ASC-
GNCTD with Mr. Mohit
Agarwal, Advocate with Mr.
C.S. Sharma, BDO (West), Mr.
Ravinder Singh, Demonstrator,
BDO (West), Mr. Virender
Singh, Field Kanungo, office of
SDM, Punjabi Bagh

CORAM:

HON'BLE MS. JUSTICE MINI PUSHKARNA

[Physical Hearing/ Hybrid Hearing]

MINI PUSHKARNA, J. (ORAL):

1. The grievance raised in the present writ petition is that demolition action that was to be taken by the respondents in an area situated in Khasra No. 1379/1, has actually been taken on the land of the petitioner in Khasra No. 29/10/2 and Khasra No. 30/6/1 of village Tikri Kalan. It is submitted that the wall which was existing on the aforesaid Khasra under the ownership of the petitioner was wrongly demolished by the respondents, in the garb of taking demolition action in Khasra No. 1379/1. Learned counsel for the petitioner has relied

upon the *Aks-sizra* of village Tikri Kalan, which has been annexed as Annexure –II to the counter affidavit of the respondents. He submits that the said *Aks-sizra* has been prepared by the respondents themselves from the revenue records, which clearly shows that the land of the petitioner is separate from Khasra No. 1379/1, where action was required to be taken by the respondents.

2. On the other hand, learned counsel for the respondents submits that the village in question has already been urbanised. He further submits that the wall in question which was approximately 8 ft. 3 inches long has been demolished, as the same constituted encroachment on the public land.

3. However, the aforesaid submission made on behalf of the respondents is vehemently disputed by learned counsel for the petitioner. Learned counsel for the petitioner has relied upon the counter affidavit of the respondents, wherein it has been stated that the wall of the petitioner was demolished, as the same was obstructing the entry of the Government Land. Para 7 of the counter affidavit of the respondents is reproduced as below:

“7.That the respondent No.2 on 23.08.2016 has demolished the concern part of the wall which was obstructing the entry on the said government land.”

4. Thus, it is submitted that there is a clear admission on the part of the respondents that the wall which was on the land of the petitioner, was demolished only for the reason as the respondents wanted excess to the Government Land. However, by reference to the *Aks-sizra*, it is submitted that even the said contention is totally wrong

as Khasra No.1379/1 where action was to be taken, is situated far away from Khasra Nos. 29/10/2 and Khasra No. 30/6/1 of village Tikri Kalan, as per the *Aks-sizra* as filed by the respondents themselves.

5. Learned counsel for the respondents has also relied upon the short submission filed on their behalf regarding demarcation of the land. Thus, reference has been made to Para Nos. 3 and 4 of the said short submissions, which are reproduced as:

“3. That the demarcation of the said land has been done by TSM through Sh. Jagbir Singh, Prop. M/s N.K Engineers, having Regd. office at E-356, street No. 15, Ashok Nagar, Delhi-110093 and in the report of the demarcation it has been found there is a Khal (Govt. land) of 1 Gattha (which have been not assigned any Khasra No. in the Revenue Record during consolidation Period) and is adjacent to the Northern Sides of Khasra Nos. 29/10/2 and 30/6/1 which was encroached by the Bhumidars of agriculture land bearing Khasra No. 29/1/2/2 (1-19), 2/1/2 (0-4), 29/10/2 (1-10), 30/6/1 (3-0), 15/1 (2-6) and 28 (0-1) situated in Revenue Estate of Village Tikri Kalan, Delhi. The said Encroachment of the Govt land i.e. Khal of 1 Gattha was removed by BDO (West) vide letter dated 08.08.2016.

4. That according to Demarcation Report done by Total Station Method (TSM), the points of Khasra No. 29/1/2/2 (1-19), 2/1/2 (0-4), 29/10/2 (1-10), 30/6/1 (3-0), 15/1 (2-6) and 28 (0-1) situated in Revenue Estate of Village Tikri Kalan, Delhi have been marked on the spot and given to bhumidars on 05.05.2018.”

6. By reference to the aforesaid, it is submitted on behalf of the respondents that demarcation of the land in question was done as per the demarcation report Northern Sides of Khasra No. 29/10/2 and

Khasra No. 30/6/1 was encroached by Bhumidars of agricultural land bearing Khasra No. 29/1/2/2 (1-19), 2/1/2 (0-4), 29/10/2 (1-10), 30/6/1 (3-0), 15/1 (2-6) and 28 (0-1) situated in Revenue Estate of Village Tikri Kalan, Delhi. Thus, it is submitted that the said encroachment on Government land was removed by the Block Development Officer (BDO) (West) vide letter dated 08.08.2016.

7. On the other hand, learned counsel for the petitioner submits that even the aforesaid demarcation report as submitted, does not show that there was any encroachment by the petitioner on any public land.

8. It is submitted on behalf of Id. Counsel for the petitioner that he has already challenged the demarcation report, as he was never allowed to participate in the same.

9. This Court has considered the submissions made on behalf of both the parties and has also perused the record.

10. Documents on record as filed on behalf of the respondents themselves show that the area which is under the ownership of the petitioner, is separate from the public land, which is under the ownership of the respondents. This is especially manifest by reference to the *Aks-sizra*, of village Tikri Kalan, which has been filed on behalf of the respondents themselves.

11. In view thereof, let this petition be treated as representation by the respondent No.4, SDM Punjabi Bagh. The respondent No.4, SDM Punjabi Bagh will consider all the documents on record including the *Aks-sizra* of village Tikri Kalan as filed on behalf of the respondents themselves, at the time of consideration of the case of the petitioner.

12. Since it is the case of the respondents that the land already stands urbanised and area in question stands handed over to the DDA, the representation of the petitioner would be considered by the DDA as well as the respondent No.4, SDM Punjabi Bagh, and a speaking order be passed therein. After consideration of all the documents and after granting proper hearing to the petitioner, DDA/ respondent No.4, SDM Punjabi Bagh are directed to pass speaking order, including liberty to the petitioner to re-construct the wall on their own land.

13. Liberty is also granted to the respondent No.4, SDM Punjabi Bagh to physically mark the area on the basis of the demarcation report, as filed before this Court. The Halka Patwari of Village Tikri Kalan (West) would be at liberty to mark the land in order to identify the public land, as separate from that of petitioner's land. Once the area under the ownership of the petitioner is identified by the Halka Patwari, the petitioner may be allowed to construct the wall on their portion of the land.

14. In case the petitioner is aggrieved by the marking carried out by Halka Patwari as per the demarcation report or the speaking order passed by DDA/SDM, Punjabi Bagh, the petitioner would be at liberty to seek legal remedy available in accordance with law.

15. With the aforesaid directions the present petition is disposed of along with pending applications.

MINI PUSHKARNA, J

MAY 4, 2023

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