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

% Judgment delivered on: 04.01.2024

+ W.P.(C) 95/2024

MEHMOODUL HASAN

..... Petitioner

versus

GOVT. OF NCT OF DELHI AND ANR.

..... Respondents

Advocates who appeared in this case:

For the Petitioner : Ms. Smita Maan, Mr. Vishal Maan and
Mr. Rahul Bhandari, Advocates.

For the Respondents : Mr. Anupam Srivastava, ASC for GNCTD
with Ms. Sarita Pandey, Advocates along
with Mr. Vishnupriya Pandey, Executive
Project Associate (Legal), O/o DCF (South)
GNCTD.

CORAM:

HON'BLE MR. JUSTICE TUSHAR RAO GEDELA

JUDGMENT

TUSHAR RAO GEDELA, J. (ORAL)

(The proceeding has been conducted through Hybrid Mode)

CM APPL. 414/2024 (for exemption)

1. Exemption is allowed, subject to all just exceptions.
2. The application stands disposed of.

W.P.(C) 95/2024 & CM APPL. 413/2024 (for stay)



3. This is a writ petition under Article 226 of the Constitution of India, 1950 seeking the following prayers :-

“(a) Issue of a writ (s), order (s) or direction (s) in the nature of Certiorari thereby setting-aside/quashing the Notice bearing No. 39/DCF(S)/Land/Chattarpur/2022-23/11432-36 dated 18.12.2023 issued by respondent no.2;

(b) Issue an appropriate writ (s), order (s) or direction (s) in the nature of Mandamus thereby directing the respondents to jointly carry out a fresh demarcation in respect of the property of the petitioner bearing No. A- 122, measuring 300 sq. yards comprised in khasra no. 52 situated in Village Chattarpur, New Delhi forming part of unauthorized colony namely 'Dr. Ambedkar Colony, Andheria More, Chattarpur, New Delhi', and also the land comprised in khasra no. 29 of Village Chattarpur, New Delhi, alleged to be the forest land of Village Chattarpur, strictly in accordance with law;

(c) Issue an appropriate writ (s), order (s) or direction (s) in the nature of prohibition thereby restraining the respondents from demolishing and/or taking any coercive action in respect of the above said property of the petitioner bearing No. A-122, measuring 300 sq. yards comprised in khasra no. 52 situated in Village Chattarpur, New Delhi forming part of unauthorized colony namely 'Dr. Ambedkar Colony, Andheria More, Chattarpur, New Delhi' and/or dispossessing the Petitioner therefrom.

(d) Issue an appropriate writ (s), order (s) or direction (s) in the nature of Mandamus thereby directing the respondent no.3 to consider and decide the petitioner's application/representation dated 02.01.2024 inter alia raising the preliminary jurisdictional objection/issue whether even Khasra no. 29 of Village Chattarpur is a 'Forest Land', in accordance with law in a time bound manner;”

4. Ms. Smita Maan, learned counsel appearing for the petitioner draws attention of this Court to the order dated 28.09.2022 passed by the Co-ordinate Bench of this Court in W.P.(C) 14092/2022, titled as ‘Gita Ramesh & Anr. Vs. Government of NCT of Delhi & Anr.’ which is as under :-



"CM APPL. 43035/2022 (Application on behalf of the petitioners under Section 151 CPC seeking exemption from filing legible copy, accurate margin, typed, and original copy of the documents)"

*Exemption allowed subject to just exceptions.
The application stands disposed of.*

W.P.(C) 14092/2022

1. *The instant petition under Article 226 of the Constitution of India has been filed on behalf of the petitioners seeking inter alia the following reliefs:*

"(i) Issue a writ of Certiorari or any other appropriate writ or direction, order quashing/set aside the Impugned Notice bearing F. NO. 36/DCF(S)/LAND/CHATTARPUR/2020-21/11148-52 dated 15.09.2022 issued by the Office of Deputy Conservator of Forests (South), Department of forest & Wildlife, Government of NCT of Delhi;

(ii) Issue a writ of Mandamus or any other appropriate writ or direction, order directing the Office of Deputy Conservator of Forests (South), Department of forest & Wildlife, Government of NCT of Delhi to withdraw the Impugned Notice bearing F. NO. 36/DCF(S)/LAND/ CHATTARPUR/2020-21/11148-52 dated 15.09.2022;"

2. *After some length of arguments, learned counsel for the petitioners seeks an innocuous prayer to file an application/detailed representation alongwith a copy of the writ petition before the competent authority.*

3. *Learned counsel appearing on behalf of the respondents has no objection to the innocuous prayer made by the learned counsel for the petitioner.*

4. *Heard learned counsel for the parties and perused the record.*

5. *After perusal of the record, contentions made in the petition as well as the innocuous prayer made on behalf of the petitioners and no objection thereto from the respondents, this Court is inclined to allow the innocuous prayer made on behalf of the petitioners. Accordingly, the matter is referred to the Secretary, Forest Department and he may forward the same to the competent authority for adjudication of the disputes.*



- 6. The petitioners are accordingly directed to file an application/detailed representation alongwith a copy of the writ petition and certified copy of this order before the Secretary, Forest Department within four weeks from today. After receiving the said representation, the Secretary, Forest Department is directed to forward it to the competent authority for adjudication of the disputes. The said competent authority is directed to give an opportunity of hearing to the parties and thereafter, pass a speaking/reasoned order in accordance with law expeditiously, preferably within eight weeks.*
- 7. It is also directed that both the parties shall maintain status quo till the disposal of the said representation.*
- 8. With the aforesaid directions, the petition alongwith the pending application stand disposed of."*

5. Ms. Maan, learned counsel for the petitioner submits that by virtue of the impugned notice, the respondents seek to carry out demolition of the property of the petitioner purportedly situated in Khasra No. 29 of Village Chattarpur, Tehsil Saket allegedly on the ground that it is an encroachment and in violation of Section 26 of the Indian Forest Act, 1927.

6. Learned counsel submits that firstly the property of the petitioner does not fall within the khasra No. 29 and secondly, she asserts that her property falls within the khasra No. 52, which is not part of the impugned notice.

7. That apart, Ms. Maan submits that the petitioner had submitted a representation dated 28.12.2023 on 29.12.2023 with the Deputy Conservator of Forest, which is yet to be responded to. She also submits that another representation dated 02.01.2024 was submitted to the respondent No.1 i.e., Deputy Commissioner/ District Magistrate



2024:DHC:240



(South) and respondent No.3 i.e., Additional District Magistrate/ Forest Settlement Officer.

8. Learned counsel submits that the petitioner would be satisfied in case the present writ petition is treated as a representation and an order similar to the nature of the order dated 28.09.2022 is passed by this Court.

9. Accordingly, the respondent No.3 is directed to consider the present writ petition as a representation and dispose of the same in accordance with law within four weeks of the date of the receipt of this Order.

10. The concerned authority is also directed to afford an opportunity of hearing to the petitioner before passing any reasoned order.

11. It is also directed that both parties shall maintain *status quo* qua the impugned notice in respect of the properties of the petitioner alone, till the disposal of the said representations.

12. No unnecessary adjournments shall be taken by the petitioner in respect of the consideration of the aforesaid representations.

13. With the above directions, the present petition alongwith pending application stands disposed of.

TUSHAR RAO GEDELA, J

JANUARY 4, 2024
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