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

+ **W.P.(C) 1247/2024 & CM APPLs. 5224-25/2024**

RADHIKA SHARMA AND ORS. Petitioners

Through: Mr. Sanjay Poddar, Sr. Advocate with
Ms. Ridhima Gaur, Mr. Govind
Kumar, Mr. Archana Gaur,
Advocates.

versus

GNCTD AND ORS. Respondents

Through: Mr. Santosh Kumar Tripathi,
Standing Counsel with Mr. Arun
Panwar, Mr. Pradyumn Rao, Mr.
Utkarsh Singh with Mr. Kautik
Sharma, Ms. Nikita Vir, Advocates
for GNCTD.
Ms. Nikita Mishra with Mr. Sarvagya
Vidyarthi, Advocates for Forest
Department.

CORAM:

HON'BLE MR. JUSTICE TUSHAR RAO GEDELA

ORDER

% **30.01.2024**

(The proceeding has been conducted through Hybrid Mode)

1. This is a petition under Article 226 of the Constitution of India seeking, *inter alia*, following reliefs: -

“i) Issue an appropriate Writ in the nature of certiorari or any other writ or an order or direction thereby quashing and settings aside notice dated 06.01.2024 qua petitioners only;

ii) Issue an appropriate Writ in the nature of Mandamus, Order or Direction thereby restraining the respondents and their agents

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from carrying out further illegal demolition and/or illegally taking possession of the Petitioner's properties bearing Khasra No.589, 732,735,736,737,738,739,740, 741, 743, 745, 746, 747, 748, 749, 1749 Village Asola, Tehsil Saket, Delhi and further direct the respondents that they should not interfere with the peaceful possession and enjoyment of the petitioners over their suit property;

iii) Issue an appropriate Writ in the nature of mandamus, or an order or direction thereby directing the Respondents to conduct the demarcation qua petitioner's properties viz; No. Khasra No. 589, 732,735,736,737,738, 739, 740,741,743, 745, 746, 747, 748, 749, 1749 Village Asola, Tehsil Saket, Delhi, by the prescribed procedure, after giving due notice to the Petitioners and fixing reference points as per law;

iv) Issue an appropriate Writ in the nature of mandamus, order, direction of like nature directing the Respondents to pay compensation towards the costs of damaged property to the tune of Rs.10,00,000/- for unlawfully demolishing/damaging the properties of the petitioners and for harassment and humiliation caused to the petitioners;

v) Pass such further and other orders and directions as this Hon'ble Court may deem fit and proper."

2. Mr. Poddar, learned senior counsel appearing for the petitioner submits that the petitioners, who are four in number assert that the lands that they own are ancestral in nature and are covered by the khasra and khatoni which are enclosed in the writ petition along with the registered Gift Deed executed in favour of the petitioners.

3. Learned senior counsel submits that the petitioners have been in continuous possession from a very long period and that suddenly, by virtue of notice dated 06.01.2024, the respondent/ Department of Forests &



Wildlife have threatened demolition of the property ostensibly falling within khasra Nos.733, 750 & 752 Village Asola, Tehsil Saket. Learned senior counsel submits that the khasra numbers of the petitioners are 589, 732, 735, 736, 737,738, 739, 740,741,743, 745, 746, 747, 748, 749 and 1749 of village Asola, Tehsil Saket, Delhi. He submits that these khasra numbers are different from the khasra numbers contained in the impugned notice dated 06.01.2024. He submits that the assertion of the petitioner is that the officials of the Forest Department are using the said notice as a garb to take action over the property of the petitioners falling within the aforesaid khasra numbers in Village Asola.

4. He submits that in case such action is permitted to carry out, there will be irreparable damage and loss caused to the petitioners. He submits that moreover, in case there is any such demolition to be carried out, the same cannot be done without the Forest Department first ascertaining as to what are the demarcation of the khasra numbers contained in the impugned order in relation to the khasra numbers owned by them. He also relies upon the order dated 22.01.2024 passed by this Court in W.P.(C) No.983/2024 in the case of “**Mikado Properties Pvt. Ltd. vs. Govt. of NCT of Delhi & Ors.**”, particularly para nos. 8, 9, 10, 11, 12 and 13 which are extracted hereunder:

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“8. The Co-ordinate Bench of this Court in W.P.(C) 8052/2022 captioned as “Asola Homes Welfare Association & Anr. vs. Government of NCT of Delhi & Ors.” has held as under :-

“6. The statutory provision enables the concerned parties to approach the Deputy Commissioner regarding any dispute relating to boundaries. The parties, herein, are also before this Court today with a limited issue pertaining to the similar subject matter.



7. *Keeping in view the statutory provisions as well as the facts in the petition, this Court is inclined to allow the limited prayer made by learned counsel for the petitioners to move a detailed application along with the writ petition before the Deputy Commissioner (South), Department of Revenue, Government of NCT of Delhi within two weeks.*

8. *It is directed that after receipt of the application, the Deputy Commissioner (South), Department of Revenue, Government of NCT of Delhi, shall decide the dispute related to the incidental and ancillary issue of demarcation of the land in accordance with law, keeping into consideration the facts and contentions made in the instant writ petition and pass a detailed/well-reasoned order expeditiously, preferably within a period of six weeks. The petitioners are also directed to cooperate in the proceedings.*

9. *No coercive steps shall be taken against the petitioners as per the list of names given on page 77, Annexure-P4 to the petition till the disposal of the application. It is also directed that status quo with respect to the boundaries of the respective petitioners shall be maintained by both the parties.*

10. *With the aforesaid directions, the petition along with the pending application stand disposed of.”*

9. *Learned counsel submits that the demarcation, if any, carried out, if at all, by the respondents is unilateral, since no such notice was ever issued nor received by the petitioner and in the absence thereof, the demolition cannot be carried out.*

10. *He submits that the respondents along with the demolition machine are standing at the site and requests that immediate injunction orders may be passed restraining any such coercive*



action, lest it cause irreparable damage and prejudice to the case of the petitioner.

11. In view of the aforesaid orders passed by this Court previously in similar matters, the petitioner may file a detailed representation within one week from today before the respondent No.3/ Deputy Conservator of Forest, South Forest Zone and all the relevant details along with the relevant records in its possession.

12. The Deputy Conservator of Forest is directed to dispose of the representation in view of the facts and contentions raised therein and pass a reasoned order expeditiously, preferably within four weeks from the date of receipt of the representation, as stipulated above.

13. In the meanwhile, no coercive steps shall be taken against the property of the petitioner bearing D-9, Asola Farm, Village Asola, Tehsil Saket Delhi, further, till the time orders are passed by the Deputy Conservator of Forest.”

5. Learned senior counsel submits that without demarcation, even if the respondents seek to conduct any demolition, the same cannot be done unless such process is first carried out to ascertain as to whether the land belongs to the Forest Department or to the petitioner.

6. Learned senior counsel submits that the petitioners have no objection in case the demolition or any such action contemplated under the impugned notice dated 06.01.2024 is carried out in the khasra numbers identified therein i.e. 733, 750 & 752 Village Asola, Tehsil Saket, Delhi, subject to the issue of their own khasra numbers being decided and considered by the Deputy Conservator of Forest.

7. Even otherwise, learned senior counsel submits that if any



demarcation is done at all, same would be unilateral since no notice was issued to the petitioner nor was the petitioner given an opportunity to participate in the said demarcation.

8. Learned counsel for respondents disputes the issue that the demarcation was done unilaterally. He submits that ordinarily when revenue department conducts demarcation, it issues notices to the persons who are inhabiting locally, before carrying out such demarcation.

9. Learned counsel appearing for Forest Department/ respondent submits that the demarcation of the lands pertaining to khasra numbers 733, 750 & 752 of village Asola was carried out in the year 1987 and as such, the decision of the learned National Green Tribunal, *vide* order dated 15.01.2021 was passed in the case titled as “**Sonya Ghosh vs. GNCT of Delhi**” in O.A. No.58/2013.

10. In view of the aforesaid orders passed by this court previously in similar matters, the petitioner may file a detailed representation within one week from today before the respondent no.2/Deputy Conservator of Forests, Zone South along with all the relevant details and records in their possession.

11. The Deputy Conservator of Forest is directed to dispose of the representations in view of the facts and contentions raised therein and pass a reasoned order expeditiously, preferably within four weeks from the date of receipt of the representation as stipulated.

12. In the meanwhile, no coercive action shall be taken against the property of the petitioner in khasra Nos.589, 732, 735, 736, 737,738, 739, 740,741,743, 745, 746, 747, 748, 749 and 1749 of village Asola, Tehsil Saket, Delhi, further, till the time orders are passed by the Deputy



Conservator of Forest.

13. With the aforesaid, the writ petition is disposed of along with the applications, if any, in the above terms.

14. The copy of this order be given *dasti* under the signatures of the Court Master.

TUSHAR RAO GEDELA, J

JANUARY 30, 2024/hs