



2024 : DHC : 709



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

% Judgment delivered on: 31.01.2024

+ **W.P.(C) 1388/2024****RAJSHREE SINGH**

..... Petitioner

versus

**LIEUTENANT GOVERNOR,
GOVT OF NCT OF DELHI & ORS**

..... Respondent

Advocates who appeared in this case:

For the Petitioner : Mr. Vivek Kohli, Sr. Advocate with
Mr. Nalin Talwar, Ms. Yeschi Rinchhen,
Mr. Akash Yadav, Ms. Bhavya Bhatia
and Mr. Juvas Rawal, Advocates

For the Respondent : Mr. Vasuh Misra and Mr. Deepak Jain
for Mr. Anupam Srivastava, ASC
(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. 5744/2024**

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

W.P.(C) 1388/2024 & CM APPL. 5743/2024

3. This is a writ petition under Article 226 of the Constitution of

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India *inter alia* seeking the following reliefs:-

a. Issue a Writ, Order or Direction in the nature of certiorari thereby quashing the arbitrary and illegal Notice bearing No. F.NO.52/DCF(S)/LAND/ASOLA/2022-23/12642-49, Dated 06.01.2024 issued by Respondent No.2.

b. Issue a Writ, Order or Direction in the nature of mandamus thereby directing the Respondent to carry out a wholistic and complete demarcation of all land in village Asola, by the prescribed procedure, after giving due notice to the Petitioner.

4. Mr.Vivek Kohli, learned senior counsel appearing for the petitioner submits that the petitioner has been in possession of Khasra Nos. 1595 Min (3-2), 1596 Min (2-8), 1597 Min (1-3), 1598 Min (4-7), 1482 Min (2-3) admeasuring 13 bighas and 03 biswas at Village Asola, Tehsil Mehrauli, New Delhi. He submits that the said land was purchased *vide* the registered sale deed dated 20.07.2013. Learned senior counsel submits that since then the petitioner has been in peaceful possession of the said land the structure built thereon.

5. Learned senior counsel submits that out of the blue, the respondent no.2 issued a demolition noticed dated 06.01.2024 *inter alia* stating that Khasra Nos.1498, 1528, 1506 and 1552 of Village Asola, Tehsil Saket, Delhi is notified as Reserved Forest Land as per the notifications, dated 24.05.1994 and 02.04.1996 and alleged that the land has been encroached by the petitioner, which is a violation under Section 26 of the Indian Forest Act, 1927 and Section 2 of Forest (Conservation) Act, 1980 and as such directed that the encroachers remove themselves from the forest land within seven days.



6. Learned senior counsel submits that the petitioner was in occupation of the present land under the Khasra numbers covered by the registered sale deed aforesaid and has been in possession continuously without any hindrance of any quarter whatsoever. He submits that there are number of demarcation reports placed on record by the petitioner which show her continuous possession on the said land covering the aforesaid Khasra numbers and as such the impugned notice dated 06.01.2024 cannot withstand the scrutiny of law or on facts. The photocopy of the original Masavi of the year 1908 is also enclosed with the writ petition.

7. That apart, learned senior counsel submits that this Court in W.P.(C) 741/2024 titled ***Ishwar Sahai vs. Govt. of NCT of Delhi & Ors*** vide the order dated 18.01.2024 in a similar case had granted opportunity to the petitioner therein to approach the Deputy Conservator of Forest with a detailed representation directing the Deputy Conservator of Forest to consider the representation and pass a detailed order in respect thereto.

8. Learned senior counsel also relies upon the judgment of Coordinate Bench of this Court in W.P.(C) 8052/2022 titled ***Asola Homes Welfare Association & Anr vs. Government of NCT of Delhi & Ors*** whereby after noticing the provisions of Section 28 of Delhi Land Revenue Act, 1954, this Court had directed that the Deputy Commissioner (South), Department of Revenue, GNCT of Delhi to 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 order.

9. Learned senior counsel submits that in the present case too, similar directions be passed since the petitioners are in possession of demarcation reports from the year 1996 onwards to assert their right over the property falling within the aforesaid Khasra numbers.

10. Learned senior counsel submits that in case there is any demarcation done by the respondent without notice to the petitioner, the same would be unilateral and would not be binding upon the petitioner.

11. *Per contra*, learned counsel appearing for the respondent-Deputy Conservator of Forest, on advance notice submits that the petitioner is alleged to have encroached into a small portion of Khasra number 1552 and as such the demolition and removal of encroachment would be necessitated since the notice itself is predicated on the order dated 15.01.2021 passed by the National Green Tribunal in OA No. 58/2013 titled ***Sonia Ghosh vs. Govt. of NCT of Delhi & Ors*** and as such the notice is in accordance with the directions of the Tribunal.

12. Be that as it may.

13. This Court has already passed many orders in similar cases, including the one enclosed at page 208 of the present writ petition in W.P.(C) 741/2024.

14. This Court has perused the judgment in ***Asola Homes*** (supra) passed by the learned Coordinate Bench of this Court. The relevant paragraphs of the said judgment are extracted hereunder for convenience:-

“5. Section 28 of the Delhi Land Revenue Act, 1954 stipulates as under:-



“28. (1) All disputes regarding boundaries shall be decided by the Deputy Commissioner, as far as possible, on the basis of existing survey maps, but if this is not possible, the boundaries shall be fixed on the basis of actual possession.

(2) If in the course of an inquiry into a dispute under this section, the Deputy Commissioner is unable to satisfy himself as to which party is in possession, or if it is shown that possession has been obtained by wrongful dispossession of the lawful occupants of the property within a period of three months previous to the commencement of the inquiry the Deputy Commissioner-

(a) in the first case, shall ascertain by summary inquiry who is the person best entitled to the property, and shall put such person in possession; and

(b) in the second case, shall put the person so dispossessed in possession and shall then fix the boundary accordingly.”

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.”

15. Since the petitioner claims to be the owner of the property comprising the aforesaid Khasra numbers as per the registered sale deed, coupled with the fact that she is in possession of the demarcation reports stated to be categorically showing land in her possession, it would be appropriate in case the order similar to the one passed in W.P.(C) 8052/2022 is passed here too.

16. Accordingly, the prayer to the extent of filing a detailed representation coupled with the present writ petition before the Deputy Commissioner (South), Department of Revenue, GNCT of Delhi is allowed and it is directed that after receiving the application, the aforesaid authority 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 present writ petition and pass a detailed/well-reasoned order expeditiously, preferably within six weeks. If required, an opportunity of personal



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hearing may also be granted. In no case, shall the time be extended beyond six weeks for the competent authority to dispose of the representation. The petitioner to ensure her cooperation in the proceedings.

17. In the meanwhile, as of now, till the orders are passed by the competent authority on the representation, no coercive steps shall be taken in respect of the aforesaid Khasra numbers of the petitioner alone.

18. With the aforesaid, the petition alongwith pending application stands disposed of.

19. Order *dasti* under signatures of Court Master.

TUSHAR RAO GEDELA, J.

JANUARY 31, 2024

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