



2024:DHC:1844



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

% Judgment delivered on: 04.03.2024

+ **W.P.(C) 2190/2024 & CM APPL. 9113/2024**

RITEESH MOHAN BAKSHI & ANR Petitioners

versus

**GOVT. OF NCT OF DELHI THROUGH PRINCIPAL
CHIEF CONSERVATOR OF FOREST & ORS**

..... Respondents

Advocates who appeared in this case:

For the Petitioners : Ms. Smita Maan, Mr. Kartik Dabas and
Mr. Gaurav Chauhan, Advocates.

For the Respondents : Mr. Udit Malik, ASC for GNCTD with
Mr. Vishal Chanda, Advocate along
with Mr. Bakshinder Pal Singh, Range
Officer.

CORAM:

HON'BLE MR. JUSTICE TUSHAR RAO GEDELA

JUDGMENT

TUSHAR RAO GEDELA, J. (ORAL)

[The proceeding has been conducted through Hybrid mode]

1. This is a writ petition under Article 226 of the Constitution of India, 1950, *inter alia* seeking the following reliefs:-

“a. Issue a writ of certiorari and/or such order appropriate writ or order or direction quashing and setting aside the impugned notice dated 06.01.2024 (annexed as Annexure-A) passed by the Respondent No.2 under the signatures of the Respondent No.3 qua the Petitioners’ property farm no. 1, Sooryapawan, comprised in



land admeasuring 12 bighas 3 biswas, comprised in Khasra No. 1520 min., 1521 min., and 1527 min., Village Asola, Tehsil Mehrauli, New Delhi; and/or

b. Issue a writ of mandamus restraining the Respondents from taking any coercive actions against the Petitioners' property farm no. 1, Sooryapawan, comprised in land admeasuring 12 bighas 3 biswas, comprised in Khasra No. 1520 min., 1521 min., and 1527 min., Village Asola, Tehsil Mehrauli, New Delhi; and/or

c. Issue a writ of mandamus and/or such order appropriate writ or order or direction against the Respondents to follow due process of law in respect to the Petitioners' property farm no. 1, Sooryapawan, comprised in land admeasuring 12 bighas 3 biswas, comprised in Khasra No. 1520 min., 1521 min., And 1527 min., Village Asola, Tehsil Mehrauli, New Delhi; and/or

d. Issue appropriate writ and/or direction and/or orders declaring that the impugned notice dated 06.01.2024, does not relate to the Petitioners' property farm no. 1, Sooryapawan, comprised in land admeasuring 12 bighas 3 biswas, comprised in Khasra No. 1520 min., 1521 min., and 1527 min., Village Asola, Tehsil Mehrauli, New Delhi;”

2. It is the case of the petitioner that the property in question was owned by the predecessors in interest from the year 1992 onwards and was purchased by the petitioner sometimes in the year 2016 and the mutation was also effected.

3. While the things stood thus, by way of notice dated 06.01.2024, the respondent no.2 - forest department informed that khasra number 1498, 1528, 1506 & 1552 of Village Asola, Tehsil Saket, New Delhi, which has been notified as reserved forest land *vide* the notification dated 24.05.1994 and 02.04.1996 have been allegedly encroached by petitioner which is in violation of Section 26 of the Indian Forest Act, 1927 and Section 2 of Forest (Conversation) Act, 1980 and as such to vacate the said forest land.



4. Ms. Maan, learned counsel appearing for the petitioner had, after an opportunity granted by this Court, filed additional documents showing the land in question to be belonging to the petitioner *vide* the registered sale deed of the year 1992, as also khasra khatoni in the name of the predecessors in interest. She submits that the petitioners are in continuous peaceful possession of the said property which falls within khasra the 1520 min, 1521 min, 1527 min admeasuring 12 bighas 3 biswas.

5. She submits that in any case, the impugned notice dated 06.01.2024 pertains to the 1498, 1528, 1506 & 1552 of Village Asola, Tehsil Saket and does not refer to the khasra numbers that the petitioner claims ownership and possession of. Yet, the impugned notices were pasted on the subject land. She submits that the demarcation, if any, having been carried out by the department has neither been shared nor was the petitioner put to any notice or even made a participant thereto. She submits that the said demolition of the structures and reclaiming the said portions as land belonging to the forest department would be contrary to the documents on record.

6. Issue notice.

7. Notice is accepted by Mr. Udit, learned ASC, GNCTD. He submits that the petitioner had approached this Court without any substantial reason and has not enclosed any photographs showing that there has been any demolition carried out or any barbwire put by the forest department. He particularly invites attention of this Court to the list of dates and particularly, February, 2024 according to which the petitioners have asserted that the officials of the respondent came



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outside the said property and started demolishing of the said property and also put barbwire on the suit property.

8. Ms. Smita Maan, learned counsel for the petitioner has placed on record in pursuance of the last order dated 01.03.2024, photographs showing the portions of the property being demolished as also the demarcation done by way of placing barbwire.

9. In view of the aforesaid, the petitioners are permitted to file a detailed representation before the Deputy Conservator of Forest along with all the relevant documents in regard to ownership titling ownership of their property, as mentioned above.

10. The Deputy Conservator of Forest may consider the representation in accordance with law and afford an opportunity of hearing to the petitioners and pass appropriate order thereon.

11. The same may be done within six weeks from today.

12. In the meanwhile, no further coercive action may be taken against the petitioners during the pendency of the representation before the Deputy Conservator of Forest.

13. In view of the above direction, the petition along with pending application is disposed of.

TUSHAR RAO GEDELA, J.

MARCH 4, 2024

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