



2024:DHC:1373



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

% Judgment delivered on: 19.02.2024

+ **W.P.(C) 2397/2024****GURU BHAGAT BRAR** Petitioner

versus

DEPARTMENT OF FOREST AND WILDLIFE & ORS

..... Respondent

Advocates who appeared in this case:

For the Petitioner : Mr. Sunil Fernandes, Senior Advocate
with Mr. Sanchit Garga and Ms.
Diksha Dadu, Advocates

For the Respondent : Ms. Mehak Nakra, ASC (Civil) with
Mr. Abhishek Khari and Ms. Disha
Chaudhory, Advocates

CORAM:**HON'BLE MR. JUSTICE TUSHAR RAO GEDELA****JUDGMENT****TUSHAR RAO GEDELA, J. (ORAL)****[The proceeding has been conducted through Hybrid mode]****CM APPL. 9908/2024**

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

W.P.(C) 2397/2024 & CM APPL. 9907/2024 (Stay)

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



India, 1950, *inter alia* seeking the following reliefs:-

“a. Set aside the Notice of Respondent No. 1 bearing Notice Bearing F. No. 52/DCF(S)/LAND/ ASOLA/2022-23/13524-30 dated 30.01.2024 qua the premises of the Petitioner being land and appurtenant buildings at Khasra No. 906(1-19),907(1-15),908 (1-9),909(1-13),911(1-16), 912(2-4), 913(0-14) And 914(0-10),situated at Village Asola, Tehsil Saket, New Delhi and/or

b. Declare the Notice of Respondent No. 1 bearing Notice Bearing F. No. 52/DCF(S)/LAND/ ASOLA/2022-23/13524-30 dated 30.01.2024 does not pertain to premises of the Petitioner being land and appurtenant buildings at Khasra No. 906(1-19), 907(1-15),908 (1-9), 909(1-13), 911(1-16), 912(2-4), 913(0-14) And 914(0-10), situated at village, Asola,Tehsil Saket, New Delhi ("said premises") and/or.

c. Direct the Respondents to expeditiously demarcate the Petitioner's premises by scientific measures like TSM (Total Station Machine) or DGPS (Differential Global Positioning System) during the pendency of this Petition.”

4. Mr. Sunil Fernandes, learned senior counsel appearing for the petitioner submits that the petitioner is the owner of parcels of land by virtue of the registered Sale Deeds dated 28.01.1994 in respect of land admeasuring 12 Bighas and 4 Biswas bearing Khasra Nos. 906(1-19), 907(1-15), 908(1-9), 909(1-13), 911(1-16), 912(2-4), 913(0-14) and 914(0-10), situated at Village Asola, Tehsil Mehrauli, New Delhi.

5. Learned senior counsel submits that apart from the aforesaid Sale Deeds, the petitioner had also obtained NOC from the erstwhile Delhi Electric Supply Undertaking seeking permission to fix a tube well for the purpose of agricultural use in the subject lands. The same was



granted vide the permission dated 21.07.1995. The permission was granted *vide* order dated 02.01.1997 by the Municipal Corporation of Delhi for construction of farm house on Khasra Nos. 906(1-19), 907(1-15), 908(1-9), 909(1-13), 911(1-16), 912(2-4), 913(0-14) and 914(0-10), total admeasuring 13 Bighas, situated at Village Asola, Tehsil Mehrauli, New Delhi.

6. Learned senior counsel submits that, that apart there are ample revenue documents in the form of Khasra Girdawari, etc. to show the consistent possession of the petitioner over the Khasra numbers enumerated above. While the petitioner was in the possession of the entire Khasra numbers, as enumerated above, without even giving any proper legal notice, respondent no.1-Department of Forest and Wildlife brought their machines and carried out demolition of the parameter boundary wall in the property of the petitioner. According to learned senior counsel they have also inserted certain poles on the land for a purpose which is unknown till date.

7. Learned senior counsel invites attention of this Court to the impugned demolition notice dated 30.01.2024 to submit that the said notice is for some encroachers on Khasra no. 1424 and 1430 of Village Asola, Tehsil Saket, New Delhi and has no reference either to the petitioner or his property and as such the such demolition which has been carried out is not in accordance with law.

8. Moreover, learned senior counsel also submits that there is no demarcation conducted by the respondent before such action was taken. He also submits that the petitioner has never been made a party to such demarcation, if any, carried out by the said respondent.



9. In the aforesaid circumstances, learned senior counsel submits that the entire action taken by the respondent is contrary to the law.

10. Ms. Mehak Nakra, learned ASC appearing for the respondents on advance notice submits that the portions, which according to respondent no.1 fall within the forest land, as per the impugned notice have already been demolished. She further submits that impugned notice categorically indicates that the said Khasra numbers, as mentioned in the notice, i.e. Khasra nos. 1424 and 1430 have been notified as Reserved Forest Land as per the notifications dated 24.09.1994 and 02.04.1996. Since the said lands pertain to the Forest Department, the Department is only reclaiming what is within its rights.

11. This Court has considered the arguments of learned senior counsel for the petitioner as also Ms. Nakra, learned ASC for respondent.

12. Such similar matters have been engaging the attention of this Court and regular orders have been passed previously. One such order passed by this Court is in case of ***Mikado Properties Pvt. Ltd vs. Govt of NCT of Delhi & Ors, W.P.(C) No.983/2024, dated 22.01.2024***, particularly to para nos. 8 to 13, which are extracted hereunder:-

“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."*

13. In view of the aforesaid consistent orders passed by this Court, this Court is of the considered opinion that the present writ petition be treated as a representation to be decided by the Deputy Conservator of Forest (South), alongwith all the other relevant documents and details in their possession. The Deputy Conservator of Forest (South) is directed to dispose of the representation in view of the contentions raised therein with a reasoned order, preferably within a period of six weeks from the date of receipt of this Writ Petition. The Deputy Conservator of Forest shall grant adequate opportunity of personal hearing to the writ petitioner while considering the representation.

14. In the meanwhile, no further coercive action shall be taken in respect of the property of the petitioner bearing on Khasra Nos. 906(1-19), 907(1-15), 908(1-9), 909(1-13), 911(1-16), 912(2-4), 913(0-14) and 914(0-10), total admeasuring 13 Bighas, situated at Village Asola, Tehsil Mehrauli, New Delhi for a period of ten days from the date of receipt of the order of the Deputy Conservator of Forest.

15. Learned senior counsel for the petitioner submits that the property of the petitioner is within 2 kms of the Asola Village and as such the demolition of the parameter wall may entail danger to the life of the petitioner and his wife, who are aged about 72 and 70 years,



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respectively, who live alone in the said property.

16. Learned senior counsel also undertakes that no special equities will be claimed on such interim directions.

17. Keeping in view the aforesaid submissions of learned senior counsel, the petitioner is permitted to repair the broken parameter wall, without any special equities arising in his case. The petitioner shall be bound by the undertaking given by learned senior counsel.

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

TUSHAR RAO GEDELA, J.

FEBRUARY 19, 2024

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