



2024:DHC:1374



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

% Judgment delivered on: 19.02.2024

+ **W.P.(C) 2409/2024****CHANDER SINGH KHATANA AND ANR Petitioner**

versus

DEPUTY CONSERVATOR OF FOREST AND ORS

..... Respondent

Advocates who appeared in this case:

For the Petitioner : Ms. Smita Maan, Mr. Vishal Maan, Mr. Aditya Singh, Mr. Jayant Tewathia and Mr. Kartik Dabas, Advocates

For the Respondent : Mr. Avishkar Singhvi, ASC with Mr. Naved Ahmed, Mr. Vivek Kumar Singh and Mr. Deokinandan Sharma, Advocates for R-1.
Mr. Sanjay Kumar Pathak, Standing Counsel with Mr. Sunil Kumar Jha, Mr. M.S. Akhtar, Mr. Mayank Arora and Ms. Musarrat, Advocates for R-2/LAC.

CORAM:**HON'BLE MR. JUSTICE TUSHAR RAO GEDELA****JUDGMENT****TUSHAR RAO GEDELA, J. (ORAL)****[The proceeding has been conducted through Hybrid mode]****CM APPL. 9916/2024**

1. Exemption allowed subject to all just exceptions.



2. The application stands disposed of.

W.P.(C) 2409/2024 & CM APPL. 9915/2024 (Stay)

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

“(a) issue of a writ (s), order (s) or direction (s) in the nature of certiorari thereby quashing the Notice bearing F.No. 52/DCF(S)/Land/Asola/2022-23/12634-41 dated 06.01.2024 issued by respondent no.1 by wrongly demarcating/identifying the private self-owned property of the petitioners comprised in khasra nos. 754 min (0-19), 755 min (1-06), 756 min (1-13), 757 min (0-12-10), 758 min (0-02), and 798 min (0-3-10) total ad-measuring 4 bighas and 16 biswas, total ad-measuring 4 bighas and 16 biswas bighas i.e. 1 acre, situated in the revenue estate of village Asola, Tehsil Saket, New Delhi, as alleged khasra no. 733, 750 and 752 of village Asola, New Delhi based on an alleged demarcation of 'forest land of village Asola' which has been carried out behind the back of the petitioners in complete violation of the mandatory rules, regulations and statutory procedure;

(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 above said private property of the petitioners comprised in above mentioned khasra nos. and the land comprised in khasra no.733, 750 and 752 village Asola, Tehsil Saket, New Delhi, 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 further coercive action in respect of the above said private property of the petitioners comprised in above said khasra nos. and/or dispossessing the petitioners therefrom.

(d) permitting the petitioners to restore the demolished boundary wall around their above said land till the pendency



of the demarcation application filed by petitioners before the respondents; and

(d) Pass any further order(s) which this Hon'ble Court may deem fit and proper in the facts and circumstances of the present case."

4. Ms. Smita Maan, learned counsel appearing for the petitioners submits that the petitioners have purchased the property vide the Sale Deeds dated 16.10.2017 comprising Khasra Nos.754 min (0-19), 755 min (1-06), 756 min (1-13), 757 min (0-12-10), 758 min (0-02), and 798 min (0-3-10) total admeasuring 4 Bighas and 16 Biswas in the revenue estate of Village Asola, Tehsil Saket, New Delhi.
5. In support of the aforesaid contentions, Ms. Maan submits that the copies of the registered Sale Deed are annexed to the present petition, including those of the previous owners of the said property merely to show the continuation of the interest and possession of the petitioner and the predecessor-in-interest over the land.
6. Learned counsel invites attention of this Court to the demolition notice dated 06.01.2024 issued by the respondent-Forest Department to submit that the respondents only referred to Khasra Nos. 733, 750 and 752 of Village Asola, Tehsil Saket, New Delhi as a Reserved Forest Land. She submits that the petitioners' property does not fall within the said notification, yet the Forest Department officials had carried out partial demolition of the portion of the parameter boundary wall of the property of the petitioner.
7. She submits that there has been no demarcation carried out by the Forest Department nor the petitioners were ever invited for such demarcation to ascertain as to whether on facts or on ground, the Khasra



numbers belonging to the petitioners too encroach upon the purported Forest Land, asserted by the Forest Department. She submits that in similar circumstances, the Coordinate Bench of this Court in **W.P.(C) 8052/2022** titled **Asola Homes Welfare Association & Anr vs. Government of NCT of Delhi & Ors** dated 23.05.2022 had directed the following:-

“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.”



8. She has also relied upon the judgment of Coordinate Bench of this Court dated 05.01.2023 passed in **W.P.(C) 17703/2022** titled ***M/s Rangoli Resorts Private Limited & Anr vs. Government of National Capital Territory of Delhi & Ors.***, whereby this Court had directed that demarcation proceedings ought to be carried out to give a correct picture.

9. Mr. Avishkar Singhvi, learned ASC appearing for the respondent-Forest Department submits that the dispute is not as to whether the petitioner is or is not owner of the Khasra Nos. 754 min (0-19), 755 min (1-06), 756 min (1-13), 757 min (0-12-10), 758 min (0-02), and 798 min (0-3-10) total admeasuring 4 Bighas and 16 Biswas in the revenue estate of Village Asola, Tehsil Saket, New Delhi. He submits that the dispute is that in the guise of the ownership of the said property, the parameter boundary wall is constructed beyond the area of the aforesaid khasra and has encroached into the khasra numbers of the Forest Department. He submits that it was only in those areas where such boundary wall was encroaching into the portions of the respondent-Forest Department's land, the demolitions have been carried out.

10. After hearing the learned counsel for the parties, this Court is of the considered opinion that as directed in other previous similar matters, similar directions can be passed in the present petition too.

11. Learned counsel draws attention of this Court to the application dated 08.02.2024 filed by the petitioners with SDM, M.B. Road, Saket, New Delhi, seeking demarcation of the Khasra Nos. 754 min (0-19), 755 min (1-06), 756 min (1-13), 757 min (0-12-10), 758 min (0-02), and 798 min (0-3-10) total admeasuring 4 Bighas and 16 Biswas in the revenue



estate of Village Asola, Tehsil Saket, New Delhi, however, no such demarcation proceedings have been commenced by the SDM, Saket.

12. Ms. Maan submit that all that the petitioners seek is the demarcation of their property and it would not be really relevant as to whether the demarcation proceedings are carried out by the SDM or by the MCD or by the DDA. This submission is made by Ms. Maan in view of the fact that the said area has already been urbanized *vide* the notification dated 28.11.2019 under Section 507(a) of the Delhi Municipal Corporation Act, 1957.

13. The present writ petition is transmitted to the Deputy Conservator of Forest to be treated as a representation on behalf of the petitioners. The Deputy Conservator of Forest is directed to consider the same and pass a reasoned order, taking into consideration all the materials placed before him by the petitioners, including the documents annexed to the present petition. The Deputy Conservator of Forest shall also afford an opportunity of hearing to the petitioners before any such orders are passed.

14. In the meanwhile, if required, the Deputy Conservator of Forest may also direct the demarcation to be done so as to ascertain the correct area of the petitioners' property within Khasra Nos.754 min (0-19), 755 min (1-06), 756 min (1-13), 757 min (0-12-10), 758 min (0-02), and 798 min (0-3-10) total admeasuring 4 Bighas and 16 Biswas in the revenue estate of Village Asola, Tehsil Saket, New Delhi.

15. Ms. Maan submits that the petitioners be permitted to put up a temporary wire fencing in the portions of the demolished parameter boundary wall so as to ensure security of the petitioners and their



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property.

16. As an interim arrangement, the petitioners are permitted to place the wire fencing on the demolished portion of the parameter boundary wall as a temporary measure till the demarcation application is decided by the Deputy Conservator of Forest or the representation is finally decided by the Revenue Authority.

17. Since respondent no.3-Deputy Commissioner is party respondent to the present petition, the demarcation application filed by the petitioners on 08.02.2024 may be also disposed of within two weeks from today.

18. The Deputy Conservator of Forest may dispose of the representation within six weeks from today. Copy of this order be furnished to the petitioners.

19. Needless to state that the petitioners shall be at liberty to challenge the same in accordance with law.

20. No special equities shall be read in favour of the petitioners merely because this Court has permitted putting of temporary wire fencing around the parameter boundary.

21. In view of the aforesaid, no further coercive action may be undertaken by the Forest Department.

22. The petition is disposed of in above terms.

TUSHAR RAO GEDELA, J.

FEBRUARY 19, 2024

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