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

% ***Date of Decision: 24th May, 2024***

+ **CONT.CAS(C) 141/2021**

AJIT PAL SINGH & ORS.

..... Petitioners

Through: Mr. Sanjay Dewan, Mr. Anish
Dewan, Mr. Aayush Dawar,
Advocates (M:9811036782)

versus

MS. ANKITA CHAKRABORTY & ORS.

..... Respondents

Through: Mr. Rishikesh Kr. ASC-GNCTD with
Mr. Atik Gill, Ms. Sheenu, Advocates
for R-2 (M:9999394594)
Mr. Mohinder J.S. Rupal, Advocate
for University of Delhi

CORAM:

HON'BLE MS. JUSTICE MINI PUSHKARNA

MINI PUSHKARNA, J (ORAL)

1. The present petition has been filed alleging willful disobedience of the order dated 29th July, 2019 passed in *W.P.(C) 8157/2019*.
2. The petitioners are stated to be the owners of agricultural land measuring *14 bighas and 2 biswas, bearing Mustatil No. 106, Killa Nos. 17(4-16), 18 Min (3-12), 23 Min (3-12) and 24/1 (2-2), situated in the Revenue Estate of Village Dera Mandi, Tehsil Hauz Khas, Mehrauli, New Delhi-110047*. The aforesaid writ petition was filed by the petitioners praying that the respondents be restrained from raising illegal/unauthorized construction in and on the aforesaid land belonging to the petitioners. The petitioners further prayed that respondents be restrained from encroaching



upon the private land of the petitioners, and the illegal/unauthorized construction raised on the land of the petitioners, be removed/demolished. It was the case of the petitioners that respondent no.5, i.e., University of Delhi, was illegally building a boundary wall on the land belonging to the petitioners.

3. On the other hand, it was the case of respondent no.5/University of Delhi, that it had been allotted 40 bighas of land in *Khasra Nos. 1937/1307 to 1990/1307*, in village Fatehpur Beri, District South, Delhi, for opening a Girl's Degree College.

4. Thus, a title dispute was raised by the petitioners, wherein, the petitioners claimed that the land in physical possession of respondent no.5/University of Delhi, was not the land, allotted to it. However, the respondent no.5/University of Delhi, claimed allotment of the land in question, to it, by the Government of NCT of Delhi, of which, it had already taken physical possession of.

5. In view of the title dispute as regards the land in question between the parties, directions were issued in the said petition vide order dated 29th July, 2019, to demarcate the land, in order to determine the diverse claims of the parties. Thus, by order dated 29th July, 2019, directions were issued in the following manner:

“xxx xxx xxx

11. In so far as the petitioners' prayer that the concerned Tehsildar be directed to carry out the demarcation is concerned, the same is merited. It is stated that the petitioners have already deposited the requisite fees for the demarcation.

12. In this view, respondent no.2 is directed to carry out the demarcation as requested by the petitioners, if not already done,



within a period of eight weeks, from today.

13. The learned counsel appearing for respondent no.2 states that request for demarcation was filed in August, 2018, but he does not have any instructions as to whether any demarcation had been carried out pursuant to the said request. Plainly, if the demarcation has been carried out pursuant to the said request, there would be no requirement to carry out the same afresh. The petitioners would be at liberty to seek copies of the report and take such steps as may be advised.

14. This Court does not consider it apposite to restrain respondent no.5 in any manner to carry out any activity on the land, possession of which was handed over to it. Needless to state that if the petitioners succeed in establishing that the land in question belongs to them, the same would have to be restored to the petitioners and it would not be open for respondent no.5 to claim any equities on account of construction carried on the said land.

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6. Perusal of the aforesaid order shows, that directions had been issued to the respondents, to carry out demarcation of the land in question, in case, the same had already not been carried out. Further, directions were issued that the petitioner would be at liberty to seek copies of the Demarcation Report and take such steps, as may be advised.

7. This Court notes that the Demarcation Report has been placed on record by the respondents, along with the relevant documents. Copy of the same, has also been provided to the petitioners.

8. Learned counsel for respondents submits that after carrying out of the demarcation of the land in question, the directions issued by the court vide order dated 29th July, 2019, stand complied with.

9. Per contra, learned counsel for petitioners submits that the purported demarcation, which has been carried out by the respondents, is not a demarcation at all. He submits that the respondents have not followed the



proper procedure, and the documents that have been placed on record by the respondents, purportedly as Demarcation Report, cannot be considered as Demarcation Report at all. It is submitted that petitioners are the owners of the land in question.

10. This Court is of the view that once demarcation process has been carried out by the respondents in terms of the directions passed by the court, there is substantial compliance by the respondents, and proceedings for contempt cannot continue against the respondents. Even otherwise, this Court will not adjudicate on the claims of the petitioners, as regards their ownership over the land in question, in the present proceedings.

11. This Court notes that vide aforesaid order dated 29th July, 2019, liberty has already been granted to the petitioners to establish their claim over the land in question. It is clearly recorded that if the petitioners succeed in establishing that the land in question belongs to them, the same would have to be restored to the petitioners.

12. Even otherwise, it is manifest that the demarcation process has nothing to do with the ownership and if any party is claiming ownership, the same will have to be decided in appropriate proceedings, by establishing their respective claims by way of evidence in Trial Court proceedings.

13. Accordingly, if the petitioners have any grievance with the demarcation carried out by the respondents, the petitioners are at liberty to challenge the same in appropriate proceedings, as such issues, regarding laying challenge to the demarcation process, cannot be decided in the present proceedings. Likewise, the petitioners are at liberty to seek remedy in appropriate proceedings, in accordance with law, to establish their claim of ownership over the land in question.



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14. With the aforesaid directions, the present petition is disposed of.

MAY 24, 2024
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MINI PUSHKARNA, J