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

+ **W.P.(C) 3002/2024**

SHYAMVIR AWANA

..... Petitioner

Through: Mr. Jayant K. Sud, Sr. Advocate with
Mr. Sanjoy Kumar Ghosh, Mr. Rupali
S. Ghosh, Mr. Kartik Jasra, Mr.
prannit, Mr. Shivam and Mr. Akash,
Advocates

versus

GOVT OF NCT OF DELHI & ANR

..... Respondent

Through: Mr. Pradyut Kashyap, Proxy
Advocate for Mr. Satyakam, ASC

CORAM:

HON'BLE MR. JUSTICE TUSHAR RAO GEDELA

ORDER

28.02.2024

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(The proceeding has been conducted through Hybrid Mode)

CM APPL. 12385/2024 (Exemption)

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

W.P.(C) 3002/2024 & CM APPL. 12384/2024 (Stay)

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

“Issue of writ in the nature of mandamus directing the respondents to issue of writ in the nature of mandamus and/or any other appropriate writ/s, order/s, and/or/directions thereby quashing and setting aside the impugned notice dated 9/2/2024 issued by the Respondents directing demolition of the premises/ property being H-16/1047/99, Sangam Vihar, New Delhi

W.P.(C) 3002/2024

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110080 which is situated in the Khasra No. 2206/1046, 2207/1046, 2210/1046 and 2211/1046 in Village Tughlakabad and further issuance of writ / order / direction restraining any demolition of the construction / structure in the premises / property being H-16/1047/99, Sangam Vihar, New Delhi 110080 which is situated in the Khasra No. 2206/1046, 2207/1046, 2210/1046 and 2211/1046 in Village Tughlakabad in pursuance to the aforesaid impugned notice dated 9/2/2024.”

4. Mr. Sud, learned senior counsel for the petitioner submits that though the impugned notice of demolition is dated 09.02.2024, however, the same was pasted on his premises on 24.02.2024, giving them hardly any time to react to the same.

5. Learned senior counsel submits that the petitioner has been in possession of the property bearing House No. H-16/1047/99, Sangam Vihar, New Delhi 110080 which is situated in the khasra numbers 2206/1046, 2207/1046, 2210/1046 and 2211/1046 Village Tughlakabad, from more than a decade and as such, has possessory rights over the said land. Whereas the notice dated 09.02.2024 has been issued in respect of Khasra Numbers 1646 and 1647, village Tughlakabad, Tehsil Kalkaji which is alleged to be notified as Reserve Forest Land.

6. He submits that there could be no possibility of an authority carrying out demolition or seeking vacation of the land without acting in due process of law. He submits that mere pasting of the impugned order dated 09.02.2024 not within the four corners of law. On that basis, learned senior counsel submits that the respondent be enjoined



from taking demolition action against the petitioner except in accordance with law.

7. Issue notice.

8. Notice is accepted by Mr. Khashyap, proxy for Mr. Satyakam, learned ASC.

9. This Court has considered the arguments and perused the documents placed on record.

10. After having considered the submissions made by Mr. Sud, learned senior counsel, this Court is of the considered opinion that the present petition may entail appreciating certain questions of facts and as such, it would be appropriate to relegate the petitioner to the civil remedy under a Court of competent jurisdiction. Since it has been asserted that the petitioner has been in continuous possession of the said property for more than a decade, as an interim measure, the respondents are restrained from taking any coercive action for a period of four weeks, commencing from today.

11. The petitioner is at liberty to raise all the contentions and grounds as raised in the present petition as also available to the petitioner in an appropriate proceedings, in accordance with law. Learned Civil Court is directed to expeditiously dispose of the proceedings as and when filed by the petitioner.

12. In view of the aforesaid, the petition is disposed of with no order as to costs.



13. A copy of this order be given *dasti* to learned counsel appearing for the parties under the signatures of Court Master.

14. Mr. Kashyap undertakes that the information shall be tendered to the officials present at site forthwith.

TUSHAR RAO GEDELA, J

FEBRUARY 28, 2024/ms