



2024:DHC:1638



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

% Judgment delivered on: 29.02.2024

+ **W.P.(C) 3086/2024****ADARSH ENCLAVE
RESIDENTS WELFARE ASSOCIATION (REGD)**

..... Petitioner

versus

GOVERNMENT OF NCT OF DELHI

..... Respondent

Advocates who appeared in this case:

For the Petitioner : Mr. Sunil Chaudhary and Ms. Preeti Shah, Advocates.

For the Respondent : Ms. Hetu Arora Sethi, ASC for GNCTD.

CORAM:**HON'BLE MR. JUSTICE TUSHAR RAO GEDELA****JUDGMENT****TUSHAR RAO GEDELA, J. (ORAL)****[The proceeding has been conducted through Hybrid mode]****CM APPL. 12736/2024 (for exemption)**

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

W.P.(C) 3086/2024 & CM APPL. 12735/2024 (for interim directions)

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



“a) issue a writ in the nature of prohibition, prohibiting the respondent from taking any action / carry out demolition in the properties of the residents of the petitioner situated in khasra nos. 1383, 1384, 1385 and 1386, khata nos. 232/141, situated in the revenue estate of Village Aya Nagar, New Delhi now known as Adarsh Enclave, Phase-VI, Aya Nagar, New Delhi without following the due process of law;

b) issue a writ in the nature of prohibition, prohibiting the respondent from dispossessing the residents of the Petitioner from their properties/ houses constructed in khasra nos. 1383, 1384, 1385 and 1386, khata nos. 232/141, situated in the revenue estate of Village Aya Nagar, New Delhi now known as Adarsh Enclave, Phase-VI, Aya Nagar, New Delhi, without following the due process of law;

c) issue a writ in the nature of mandamus or direction to the respondent to grant personal hearings to the residents of the petitioner before carrying out any demolition activity further the respondent be directed to conduct proper enquiry and supply the copy of the notice / proceedings / order if any for demolition / vacation of the property to the residents of the petitioner; ”

4. Learned counsel appearing for the petitioner submits that though there is no document on record to show the title as of now, however, the members of the petitioner association, have been in possession of their respective constructed portions from almost 12-15 years.

5. Learned counsel also invites attention of this Court to the Electricity bills indicating the dates of energisation of the electric supply of some of the members of the petitioner association, to indicate the various dates from when the petitioners were in possession of that particular parcels of land, on which they are stated to have made constructions.

6. Learned counsel further submits that the petitioner association



falls within the khasra Nos. 1383, 1384, 1385 and 1386 and khata No. 232/141 situated in the revenue estate of Village Aya Nagar, New Delhi now known as Adarsh Enclave, Phase-VI, Aya Nagar, New Delhi. He submits that no prior notice for carrying out any demolition was ever issued by the respondent – Forest Department and suddenly, without any notices, the Forest Department had commenced carrying out demolitions of some properties of some of the members of the petitioner association.

7. He further submits that even it would be assumed that the land pertained to the Forest Department, though without admitting to the same, the demolitions could not have been carried out without issuing a basic show cause notice before such action is initiated.

8. He submits that the members of the petitioner association must be protected. He further submits that apart from that, there is no report of demarcation nor the petitioners were ever made participants to the demarcation, if even carried out by the department. As such, without demarcation, the Forest Department claiming/ re-claiming the portions of the aforesaid khasra numbers on the basis that it belongs to the Forest Department, would be violation of law.

9. Issue Notice.

10. Notice is accepted by Ms. Hetu Arora Sethi, learned ASC for GNCTD.

11. Learned ASC vehemently refutes the submissions made by the learned counsel for the petitioner. She submits that contrary to what has been submitted, by way of the notices dated 16.02.2024 and 21.02.2024, the notices have been issued to the members of the petitioner association directing them to vacate the area so as to enable the respondent



Department to demolish the properties and re-claim the said khasra numbers.

12. She submits that the said notice was issued in respect of khasra Nos. 1978, 1979, 1980, 1981 and 1982 of Revenue Estate of Village Aya Nagar alone. She submits that so far as the khasra numbers petitioner has referred to in his petition, have not, as of now, been issued notices.

13. She also submits that the said khasra numbers are not Forest Lands, and as such, the Forest Department in any case is not re-claiming the same or nor going to carry out any demolitions.

14. She also submits that there are no title documents showing the rights of the petitioner in respect of the khasra numbers that they are claiming to be a part of.

15. After considering the arguments of the learned counsel for the parties, this Court is of the considered opinion that since the notice pertains only to khasra Nos. 1978, 1979, 1980, 1981 and 1982 of Revenue Estate of Village Aya Nagar read with the admission that so far as khasra Nos. 1383, 1384, 1385 and 1386 and khata No. 232/141 situated in the revenue estate of Village Aya Nagar, New Delhi now known as Adarsh Enclave, Phase-VI, Aya Nagar, New Delhi is concerned, the said land does not belong to the Forest Department, it is *prima facie*, apparent that the question of demolition does not arise.

16. In the considered opinion of this Court, the aforesaid statement should be sufficient to protect the petitioners. However, in case there is any other issue left, the petitioners are at liberty to take appropriate remedies in accordance with law so as to protect their rights.



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17. Petitioners are at liberty to approach the Deputy Conservator of Forest with a suitable representation with the relevant documents in their possession. The Deputy Conservator of Forest shall consider the same in accordance with law and pass a reasoned order thereon within six weeks of submissions of such representation, if any.

18. With the aforesaid directions, the present petition along with pending application is disposed of.

19. Order *Dasti* under the signatures of Court Master.

TUSHAR RAO GEDELA, J

FEBRUARY 29, 2024

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