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

+ **W.P.(C) 3091/2024**

POOJA JHA

..... Petitioner

Through: Mr. Vishal Kumar, Mr. Vaibhav Mishra, Mr. L. A. Vashistha and Mr. Aman Tripathi, Advocates

versus

GOVT OF NCT OF DELHI & ORS

..... Respondent

Through: Mr. Karn Bhardwaj, ASC with Mr. Shubham Singh and Mr. Rajat Gaba, Advocates

CORAM:

HON'BLE MR. JUSTICE TUSHAR RAO GEDELA

ORDER

29.02.2024

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(The proceeding has been conducted through Hybrid Mode)

CM APPL. 12747/2024

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

W.P.(C) 3091/2024 & CM APPL. 12746/2024 (Stay)

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

“a. Issues a writ in the nature of mandamus and/or any other appropriate writ/s, order/s, directions/s thereby quashing the impugned notice dated 09.02.2024 passed by the Respondent no. 2 and refraining the Respondents from taking any coercive action against the property of the Petitioner.

b. Pass a writ/order/instruction in the nature of prohibition in favour of the Petitioner and against the Respondents thereby prohibiting the respondents, their authorized agents, servants and employees from creating any kind of hindrance, obstruction and interference in the peaceful enjoyment and use of the property bearing No. H-16/1047/78, New Delhi.

W.P.(C) 3091/2024

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c. Any other order/relief/direction may also kindly be passed in favour of the petitioner and against the respondents as this Hon'ble Court may deems fit, just and proper according to the facts and circumstances of the present case.”

4. Learned counsel appearing for the petitioner submits that the petitioner is in a similar situation as the writ petitioner in W.P.(C) 3002/2024 captioned as Shyamvir Awana Vs. Govt of NCT of Delhi & Anr and is a resident of H-16/1047/78 Sangam Vihar, New Delhi 110080 which is situated in the khasra numbers 2206/1046, 2207/1046, 2210/1046 and 2211/1046 Village Tughlakabad, for 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.
5. 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 is not within the four corners of law. On that basis, learned counsel submits that the respondent be injuncted from taking demolition action against the petitioner, except in accordance with law.
6. Issue notice.
7. Notice is accepted by Mr. Karn Bhardwaj, learned ASC.
8. After considering the arguments of learned counsel appearing for the parties as also after perusing the order dated 28.02.2024 passed by this Court in W.P.(C) 3002/2024 captioned as Shyamvir Awana Vs.



Govt of NCT of Delhi & Anr, this Court is of the considered opinion that the present petition would entail serious disputed questions on facts which cannot be the subject matter of a writ petition. Mr. Bhardwaj submits that the case of the petitioner is not similar to the one which this Court had passed the order in the case of Shyamvir Awana to the extent that the petitioner in the present case is purportedly in possession of the said property since the year 2018 and no right has accrued to petitioner since no title documents have been placed before this Court.

9. This Court has also considered the aforesaid submission of Mr. Bhardwaj. The question of whether the petitioner has a Possessory right or any right other than that, can also not be decided by this Court in a proceeding under Article 226 of the Constitution of India. As such, the petitioner is relegated to the appropriate remedy before the Court of competent jurisdiction. Since the petitioner asserts that he is in possession of the said property from 2018, without observing anything on merits, this Court is of the considered opinion that the petitioner may seek appropriate remedy from the competent Court. However, as an interim measure, the respondents shall not take any coercive action as of now for a period of two weeks, commencing from today *qua* the petitioner's premises comprising of 40 square yards.

10. 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.

11. In view of the aforesaid, the petition is disposed of with no



order as to costs.

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

13. Mr. Bhardwaj undertakes to inform the officials who are about to carry out demolition and are present at site about the present order.

TUSHAR RAO GEDELA, J

FEBRUARY 29, 2024/ms