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

+ **W.P.(CRL) 872/2019 & CRL.M.A. 32549/2023 (Directions)**

VINOD RATRA

..... Petitioner

Through: Mr. Giriraj Subramaniam and
Mr. Simarpal Singh Sawhney,
Advocates.

versus

STATE OF NCT OF DELHI & ORS

..... Respondents

Through: Mr. Yasir Rauf Ansari, ASC (Crl.) for
the State with Mr. Alok Sharma and
Mr. Vasu Agarwal, Advocates.
Mr. Sanjeev Salhan, Advocate for R-4
to 10 and 14-17.
Mr. O.P.Bharti and Mr. Puneet
Yadav, Advocates for 11 to 13.

CORAM:

HON'BLE MR. JUSTICE AMIT SHARMA

ORDER

12.01.2024

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1. The present writ petition under Article 226 of the Constitution of India seeks following prayers:-

“In the above mentioned facts and circumstances, it is most respectfully prayed that this Hon'ble Court may be graciously pleased to:

- a. Issue a Writ of Certiorari to quash the order dated 25.11.1995 passed by the Deputy Commissioner of Police, West District, Delhi in respect of the land measuring 7,200 square yards situated in Khasra no. 600, 609,610 and 611 situated in C-block Asha Park, New Delhi.
- b. Issue a writ of mandamus directing the Respondents to hand over the vacant and peaceful possession of the land measuring 7,200 square yards situated in Khasra no. 600, 609,610 and 611 situated in C-block Asha Park, New Delhi in its original character along with a boundary wall.
- c. Pass such other further order as this Hon'ble Court may deem fit and proper in the facts of the case and in the interest of justice.”



2. During the pendency of the present petition, the predecessor Bench of this Court, *vide* order dated 19.07.2023, observed as under:-

“1. Learned counsel appearing for the petitioner hands over the bench the judgment by the Ld. Division Bench of this Court in Civil Writ Petition No. 2699/1995 dated 07.08.1995 titled M/s. Shatabdi Finlease and Securities Ltd. Vs. The Govt. of the National Capital Territory of Delhi, through its Lt. Governor.

2. By relying upon the aforesaid judgment, particularly to para 1, 5 and 9, learned counsel and submits that the present impasse can be resolved in terms of the observations made by the learned Division Bench in para 9, whereby rather than the property being under the control of police authorities by virtue of exercise of power under Section 33 of the Delhi Police Act, 1978, the said issue raised in the present petition can be referred for resolution before the Executive Magistrate under the provisions of Section 145 of the Cr.P.C., 1973.

3. According to learned counsel, in Exercise of powers under Section 145Cr.P.C., the Executive Magistrate would, after the stipulated inquiry, come to the conclusion as to which of the parties is in actual possession of the said disputed property as on the date of issuance of notice under Section 33 of the Delhi Police Act, 1978.

4. Learned counsel also submits that according to him consequent to such inquiry, the Executive Magistrate would be in a better position to decide as to who is to be put in possession of the said property.

5. Learned counsel appearing for the private respondent Nos. 4 to 10, agrees to the said suggestion and submits that in case such directions are passed, the respondents may not have any objection thereto.

6. However, in respect of the aforesaid submission, Mr. Ansari, Ld. ASC (Crl.) GNCT of Delhi, submits that before any such consideration and subsequent orders are passed, he be permitted to take appropriate instructions from the department.”

3. Subsequent thereto, status report was filed on behalf of the State, wherein it has been recorded as under:-

“4. It is submitted that the necessary instructions have been received from the office of DCP, West District, Delhi in writing. It is submitted that initially, the disputed property was taken into Police possession U/s 33 of the Delhi Police Act, 1978 when there was consistent tension between the parties. As the parties now agree



to the matter being referred to the Executive Magistrate for appropriate proceedings under Section 145 of Cr.P.C., the Delhi Police have no objection if the dispute is referred to the concerned Executive Magistrate”

4. Subsequent thereto, CRL.M.A. 32549/2023 has been preferred on behalf of the petitioner seeking following prayers:-

“In the light of aforesaid facts and circumstances, it is therefore most respectfully prayed that this Hon’ble Court may be pleased to:-

A. Pass necessary directions referring the present matter to the concerned Executive Magistrate and direct the concerned Executive Magistrate to conduct an enquiry as stipulated under Section 145 of the Code of Criminal Procedure, 1973 and pass necessary Order(s).

C. pass any such orders as it deems fit.

AND FOR THIS ACT OF KINDNESS, AS IN DUTY BOUND
SHALL EVERY PRAY”

5. Heard learned counsel for the parties and perused the record.

6. Without prejudice to the rights and contentions of the parties, learned Additional Standing Counsel for respondents no. 1 to 3, learned counsel appearing on behalf of respondents no. 4 to 10 and 14 to 17 and learned counsel appearing on behalf of respondents no. 11-13 submit that they have no objection if the present matter is referred to the learned concerned Executive Magistrate for conducting proceedings under Section 145 of the Cr.P.C.

7. In view of the above, the proceedings with respect to land measuring 7,200 Sq. Yards comprised in Khasra No. 600, 609, 610 and 611 situated in C-block, Asha Park, New Delhi, which is the subject matter of the impugned order dated 25.11.1995, alongwith the records, is directed to be placed before the learned Executive Magistrate, Rajouri Garden, New Delhi, for the



purpose of proceedings under Section 145 of the Cr.P.C. Learned Executive Magistrate is directed to proceed with the aforesaid subject matter under the provisions of Section 145 of the Cr.P.C. and shall endeavour to complete the same as expeditiously as possible, preferably within a period of 6 months from the date of initiation of the proceedings.

8. It is further clarified that till the determination of the proceedings before the learned Executive Magistrate, the orders passed under Section 33 of the Delhi Police Act, 1978, shall remain in force. The parties are directed to appear before learned Executive Magistrate, Rajouri Garden, on 30.01.2024 at 4:00 PM.

9. In view of the above, the present petition is disposed.

10. Pending application(s), if any, also stand disposed of.

11. Needless to state, nothing stated hereinabove is an opinion on the merits of the contentions of the parties to the present writ petition.

12. Copy of the order be sent to the concerned learned Executive Magistrate for necessary information and compliance.

13. Order be uploaded on the website of this Court.

AMIT SHARMA, J

JANUARY 12, 2024/sn