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

+ **W.P.(C) 4604/2024**

SMT ANGURI SAGAR

..... Petitioner

Through: **Mr. Ayaz Ahmed, Advocate.**

versus

THE UNION OF INDIA & ORS.

..... Respondents

Through:

CORAM:

HON'BLE MR. JUSTICE SUBRAMONIUM PRASAD

ORDER

% **02.04.2024**

CM APPL. 18853/2024 (Exemption)

Allowed, subject to all just exceptions.

W.P.(C) 4604/2024 & CM APPL. 18852/2024

1. The Petitioner has approached this Court challenging a Communication dated 09.10.2023 issued by the Respondent No.2/Land & Development Officer by which the possession of the Prachin Hanuman & Mata Mandir situated behind C-2/55, Moti Bagh Part-I, New Delhi has been handed over to Moti Bagh Residents Welfare Association.
2. The Petitioner has also prayed for a consequential prayer directing the Respondents to hand over the possession of the said Mandir to the Petitioner, who according to her is the priest, who is looking after the temple.
3. The facts in brief as stated in the writ petition is that the husband of the Petitioner was managing and looking after the Prachin Hanuman & Mata

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Mandir which is situated behind C-2/55, Moti Bagh Part-I now known as in front of D-12, New Moti Bagh Part-I.

4. It is stated that the husband of the Petitioner passed away on 18.07.1996 and since then the Petitioner has been managing the affairs of the Mandir. It is stated that since the officers of NBCC started interfering with the possession of the temple, the Petitioner filed a suit being Civil Suit No.515/2014, which was re-numbered as Civil Suit No.83284/2016, before the Civil Judge (South), Saket Courts claiming for a permanent injunction restraining the officers of the NBCC from demolishing the suit property. In the plaint it was claimed that the temple is a very ancient temple.

5. In the written statement, NBCC took a stand that the property was never an ancient temple and was in fact being used as a shelter for the NDMC Horticulture. It is also stated that the property has been encroached by way of a temple.

6. In the written statement, the NBCC has denied that the Petitioner was doing any kind of *pooja* in the temple.

7. The said suit was dismissed by a judgment and decree dated 06.09.2016. The learned Trial Court after going through the evidence came to the conclusion that the Petitioner herein, who was the Plaintiff, had failed to place on record any notice to the Petitioner regarding the dispossession or removal of encroachment. The Trial Court stated that the Petitioner herein has failed to file any document to substantiate her claim of ownership. The Trial Court also held that there is nothing on record to show that the temple is an ancient temple. The Trial Court also held that there is no document to show that any form of permission was taken for the construction of the temple and to show that the Petitioner i.e., the Plaintiff in the suit or her



ancestors were performing any *pooja*.

8. The matter was carried on in an appeal bearing RCA No.28/2016 before the Court of Additional Senior Civil Judge, Patiala House Courts. The First Appellate Court also held that there is nothing on record to show that the temple existed since 1903. The First Appellate Court also held that the suit has been filed by the Petitioner blinded by over-zeal to grab the property by claiming ownership of the property. The Trial Court also held that no documents have been shown by the Petitioner herein showing ownership of the property.

9. The matter was further carried to this Court in RSA 84/2019. This Court dismissed the Second Appeal by holding that it found no reason to interfere with the order passed by the learned Civil Judge and learned Additional Senior Civil Judge especially when the Petitioner failed to show any document *qua* her right, title or interest of the suit property. This Court held that photocopies of some unproved letters cannot create any right in favour of the Petitioner.

10. It is pertinent to mention at this juncture that the said area is being redeveloped by the NBCC, and therefore, in the process of redevelopment, NBCC has taken a decision to hand over the temple to the Residents Welfare Association. Challenging the said decision, the instant writ petition has been filed.

11. The instant writ petition is nothing but an abuse of the process of law as the Petitioner has failed in her attempt to prove her ownership over the property by filing a civil suit for injunction which has been dismissed primarily on the ground that the Petitioner has failed to prove any kind of right, title or interest over the property. The contention of the Petitioner



herein is that, it is an ancient temple, has not been accepted either by the Trial Court or the First Appellate Court or this Court in the Second Appeal. After failing in her endeavour claiming ownership, it is no open for the Petitioner to file the instant writ petition challenging the decision of the NBCC to handover the temple to the Residents Welfare Association as an interim measure.

12. The Petitioner cannot maintain this writ petition without having any semblance of right, title or interest in her favour. No document has been produced which established any right, title or interest of the Petitioner or her husband on the temple. Even in the Trial Court, the Petitioner has been unable to prove that the temple is an ancient one and *pooja* was conducted by the husband of the Petitioner, who was the erstwhile priest of the temple. In the facts of the case, this Court is not inclined to impose costs even though this writ petition has only resulted in wastage of judicial time.

13. The writ petition is dismissed along with pending application(s), if any.

SUBRAMONIUM PRASAD, J

APRIL 2, 2024

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