



2024 : DHC : 4690



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**+ **CONT.CAS(C) 303/2019****CHARAT SINGH**

..... Petitioner

Through: Mr. Shashank Verma, Advocate.

versus

RAJIV KUMAR & ORS

..... Respondents

Through: Ms. Hetu Arora Sethi, ASC, GNCTD
with Ms. Kavita Nailwal, Advocate.
Mr. L.D. Joshi, Standing Counsel for
R-5 & 7.

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Date of Decision: 17th May, 2024**CORAM:****HON'BLE MS. JUSTICE MINI PUSHKARNA****J U D G M E N T****MINI PUSHKARNA, J: (ORAL)**

1. The present petition has been filed seeking initiation of contempt proceedings against the respondents for non-compliance of the order dated 14th August, 2018 passed in *W.P.(C) 8503/2018*, wherein this Court had taken on record the assurance made by the respondents that the alleged illegal and unauthorized construction on the Gram Sabha land in Khasra No. 168 and 169, Village Sabhapur, Shahdara, Delhi, would be demolished.
2. This Court notes that when the matter was listed on the last date of hearing, statement had been made on behalf of Municipal Corporation of Delhi ("MCD") as well the Govt. of NCT of Delhi that the land in question does not belong either to the MCD or to the Govt. of Delhi. It was



categorically stated that the said land stands handed over to the Delhi Development Authority (“DDA”).

3. This Court notes that in its affidavit, the MCD has stated as follows:

“xxx xxx xxx

3. That in the present contempt proceedings before the Hon'ble Court MCD has been arrayed as respondent no. 5 and 7 and the petitioner has complained of encroachment over Gram Sabha land/ public way bearing Khasra no. 168, Village Sabhapur, Delhi-110094, and also complained that the respondents are not removing the encroachment.

4. That the respondent Municipal Corporation of Delhi (MCD) has found after checking up with its records, the land in question does not belong to MCD and MCD has no role as far as removal of encroachment over Gram Sabha land / public way is concerned whereas encroachment removal over Gram Sabha land / public way in question pertains to land owing agency e.g. Govt. of Delhi, Delhi Development Authority etc.”

(Emphasis Supplied)

4. This Court also notes that by its short affidavit of compliance, the Sub Divisional Magistrate (“SDM”), Karawal Nagar has stated as follows:

“xxx xxx xxx

It is being submitted that the answering respondent had earlier filed documents on 16.03.2023 wherein a letter dated 14.02.2023 from the office of SDM (Karawal Nagar) was written to the DDA was brought on record of this Hon'ble Court wherein the SDM (Karawal Nagar) informed the DDA that Village Sabhapur has been urbanized and revenue records have been handed over to the DDA on 15.01.2021 and therefore, necessary action for removal of encroachment (if any) be taken by the DDA. In pursuance of this Hon'ble Court's order dated 26.04.2024 it is again being submitted that the Village Sabhapur Shahdra has been urbanized vide notification no. F7(128)/DLR/2019/000580156/14600-15 dated 20.11.2019 and by virtue of such development, the possession of the revenue records of Village Sabhapur has been handed over to the DDA through the Block Development Office on 15.01.2021.

xxx xxx xxx”

(Emphasis Supplied)

5. It is manifest from the perusal of the aforesaid submissions and stand



of the respondents that the land in question already stands urbanized and is not under their jurisdiction. This Court also notes the submissions made by the respondents that the revenue records of the area, i.e., Village Sabhapur, have been handed over to the DDA by the Office of SDM, Karawal Nagar in January, 2021. Thus, the necessary action of removal of encroachment, if any, has to be taken by the DDA.

6. This Court notes that by order dated 14th August, 2018 passed in W.P.(C) 8503/2018, the following directions had been issued:

“xxx xxx xxx

2. *The petitioner has filed the present petition, inter alia, praying as under:-*

“a. Issue a writ/order/direction in the nature of mandamus thereby directing the Respondent Nos. 2 to 4 to remove the entire illegal unauthorized construction and encroachment done over the gram sabha land/public way bearing kh. No. 168, village Sabhapur, Delhi - 94.”

3. *Mr. Tiwari, the learned counsel appearing for respondent no.5 (EDMC) states that the concerned officers of EDMC shall examine the averments made in the petition and inspect the premises in question within a period of one week from today. He assures this court that if it is found that any unauthorized construction has been carried out, EDMC shall take immediate steps to ensure that the same is stopped and take the necessary action in accordance with law. Ms Arora, the learned counsel appearing for respondent nos.1 to 4 and 6 also states that the said respondents shall also examine whether any government land has been encroached upon and if any such encroachment is found, they shall take the necessary steps in accordance with law.*

4. *In view of the above, no further orders are required to be passed in this petition. The same is disposed of. The pending application is also disposed of.”*

(Emphasis Supplied)



7. Thus, reading of the aforesaid order clearly demonstrates that the submission made before the Court was with regard to unauthorized construction and encroachment done on Gram Sabha land, which was required to be removed.

8. However, it transpires that the area in question is no longer under the Gram Sabha and has been subsequently urbanized and handed over to the DDA.

9. Accordingly, order dated 14th August, 2018 passed in *W.P.(C) 8503/2018*, cannot be complied with by the respondents, as they are no longer the authorities having jurisdiction over the area in question.

10. Accordingly, no further orders can be passed in the present contempt petition against the respondents.

11. However, considering the submissions made by the respondents that the area in question has been handed over to the DDA and thus, falls within the jurisdiction of the DDA, the petitioner is granted liberty to approach the DDA with a representation, clearly specifying the area where unauthorized construction or encroachment is existing.

12. It is directed that, upon receipt of such representation, containing specific property numbers and areas where unauthorized construction or encroachment is existing, the DDA shall take action in accordance with law.

13. With the aforesaid directions, the present petition is disposed of.

MINI PUSHKARNA, J

MAY 17, 2024/MR