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

+ C.R.P. 163/2023, CM APPL. 33178/2023 (stay)

GAON SABHA JHATIKRA

.....Petitioner

Through: Ms. Hetu Arora Sethi, ASC with Mr.
Arjun Basra, Mr. Prakhar Mani
Tripathi, Advocates.

versus

IMARTI DEVI & ORS.

.....Respondents

Through: Mr. Ashim Shridhar and Ms. Radhika
Gupta, Advocates for R1 to R8.
Mr. Sunil Kumar and Mr. Keshav
Hans, Advocates for R10 with Mr.
Shray Sachdeva-JE.

CORAM:

HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA

ORDER

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09.12.2024

C.R.P. 163/2023

1. The Revision Petition under Section 115 of the *Code of Civil Procedure, 1908* ('CPC' *hereinafter*) has been filed on behalf of the Petitioner to challenge the impugned Order dated 04.01.2023 *vide* which the Application under Order VII Rule 11 CPC filed by the Petitioner (Defendant No. 2), has been dismissed.

2. It is submitted that the Suit Property is, as per the revenue records, "ger mumkin" land and was being used for public utility. In the year 1996, the demolition of the unauthorized Dharamshala, was carried out. The Revenue Records, as well as, the other documents to support the averments



of demolition by the Petitioner (Defendant) has also been placed on record. It is submitted that these are all public documents, which clearly show that the Respondent (Plaintiff) is an encroacher and cannot be seeking any declaration of adverse possession.

3. *Learned counsel on behalf of the Respondent/Plaintiff*, however, has countered that he has been in peaceful possession since 1969 and this is supported by the Revenue Records wherein in the revenue records i.e. khasra Girdawaries 1978-1979 his possession has been reflected. It has been more than 30 years despite which, no action has been taken by the Petitioner.

4. The averments made in the Written Statement, cannot be considered at the stage of deciding the Application under Order VII Rule 11 CPC. There are specific averments duly supported by the documents filed by the Plaintiffs/Respondents, to seek a declaration of ownership by way of adverse possession.

5. It is, therefore, submitted that there is no infirmity in the Order of the learned Civil Judge and the present Revision Petition is liable to be dismissed.

6. **Submissions heard and the record perused.**

7. There are specific averments made in the Plaint that the Respondents have been in possession of the property since 1969 and have also placed reliance on certain Revenue Records. Though, the Petitioner/Defendant has fairly emphasised that the Gram Sabha Land is intended for public utility for which Revenue Records have been filed but it is a matter of evidence.

8. The learned Trial Court has rightly observed that considering the possession of the Plaintiff in the property, it is a matter of trial, *whether*



dispossession is adverse, open and hostile to that of the Defendant/Revisionist. The averments made in the Written Statement and the documents relied upon by the Revisionist in support thereof, cannot be considered at the stage of deciding the Application under Order VII Rule 11 CPC.

9. There is no merit in the present Revision Petition, which is hereby dismissed.

10. The Revision Petition is disposed of accordingly along with the pending Application.

NEENA BANSAL KRISHNA, J

DECEMBER 9, 2024/RS