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

+ **CONT.CAS(C) 741/2024 & CM APPL. 26685/2024**

SURENDER KUMAR

..... Petitioner

Through: Ms. Kavita Saini with Mr. Roshan Lal
Saini & Mr. Sanjay Hooda,
Advocates

versus

DELHI DEVELOPMENT AUTHORITY & ORS. Respondents

Through: Mr. Arun Birbal, Mr. Sanjay Singh,
Mr. Varun Gupta, Advocates for
DDA (M:9958118327)
Ms. Beenashaw Soni, SC-MCD with
Ms. Mansi Jain, Advocate for R-
2/MCD (M:9810046611)

CORAM:

HON'BLE MS. JUSTICE MINI PUSHKARNA

ORDER

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06.05.2024

CM APPL. 26685/2024 (For Exemption)

1. Exemption allowed, subject to just exceptions.
2. Application is disposed of.

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3. The present petition has been filed alleging willful disobedience of the decree dated 30th July, 2012 passed in *Suit No. 83/2007*.
4. By way of the aforesaid decree, the following had been ordered:

“The suit coming of this day of 30.07.2012 for final disposal before me in the presence of None. It is ordered that the suit of the plaintiff is decreed and the suit property shown in site plan Ex PW 1/1 is declared as a public way and it is also declared that the plaintiff and others have a right to use the same. No order as to costs.”
5. The present petition has been filed on the ground that respondent no.3



has encroached upon the public land, due to which the petitioner and the general public are not able to use the passage/way.

6. Issue notice. Notice is accepted by learned counsels for respondent nos. 1 and 2.

7. Learned counsels appearing for respondents submit that the present petition would not be maintainable, as the decree only declared the land in question as a public way, with declaration that the petitioner and other persons will have the right to use the same. They submit that in case the petitioner has any other grievance as regards the use of public way, the petitioner is ought to seek remedy in appropriate proceedings.

8. Having heard learned counsels for the parties, this Court is of the view that the only declaration that was passed in favour of the petitioner was regarding declaring the site in question as a public way, which the petitioner, as well as others, were declared to have a right to use. Thus, subsequently, in case, any encroachment has been made by any party, the petitioner is at liberty to seek appropriate remedies as per law.

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

MINI PUSHKARNA, J

MAY 6, 2024

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