



2024:DHC:4048



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

% Judgment delivered on: 17.05.2024

+ **W.P.(C) 9831/2023 & CM APPL. 37806/2023****ANJALI VERMA & ANR**

..... Petitioner

versus

**GOVT OF NCT OF DELHI THROUGH
CHIEF SECRETARY & ORS**

..... Respondents

Advocates who appeared in this case:

For the Petitioner : Mr. B.K. Sood, Mr. Harish Gaur and
Mr. Manik Sood, Advocates

For the Respondent : Ms. Sarita Pandey, Advocate

CORAM:**HON'BLE MR. JUSTICE TUSHAR RAO GEDELA****JUDGMENT****TUSHAR RAO GEDELA, J. (ORAL)****[The proceeding has been conducted through Hybrid mode]**

1. This is a writ petition under Article 226 of the Constitution of India *inter alia* seeking the following reliefs:-

“(a) issue a writ of mandamus or any other appropriate writ, order or directions, thereby, directing the respondents to dispose of the petition / application filed before respondent no. 2 within 1 month from the date of order so passed;

(b) permit the petitioners to raise the boundary wall so demolished in April 2014 around the Farm House of petitioners to protect the same; ...”



2. Ms. Sarita Pandey, learned counsel appears for all the respondents. She refers to para 6 of the counter affidavit filed by Mr. Mandeep Mittal, the then Deputy Conservator of Forest (South) and submits that the respondent/department has no objection to and the Deputy Conservator of Forest has asserted that the petitioners are within their rights to raise a boundary wall on their own land. Learned counsel submits that there is only a request that the inspection would be carried out in the presence of the petitioners and respondents so as to ascertain the land on which the petitioners seek to raise a boundary wall in order to safeguard the forest land. The said paragraph is reproduced hereunder:-

“6. That in regard to the prayer (b) of the present petition, I say that the Petitioners are within their rights to raise boundary wall on their own land. It is however requested that an inspection be carried out in presence of the Petitioners and Respondents herein so as to ascertain and identify the land on which the Petitioners seek to raise the boundary wall so that the Forest land as mentioned above may not be encroached again.”

3. Mr. B.K. Sood, learned counsel appearing for the petitioners submits that by way of this inspection, the respondents cannot be permitted to interfere in the constructions of the boundary wall of the petitioners. The same is no more *res integra* in view of the previous orders passed by the learned National Green Tribunal (hereinafter as “NGT”) as also pursuant to the meeting of the High Level officers of the Department, including the Forest Department, held on 30.04.2015.

4. Mr. Sood has invited attention to all the orders of learned NGT passed in the matter of ***Sonya Ghosh vs. Govt. of NCT of Delhi & Ors.***



in Original Application No. 58/2013, which was in respect of reclamation of forest land and declaration of forest lands as also deemed forest. He submits by referring to the minutes of the meeting dated 30.04.2015 that the said meeting was held at the instance of the orders of the NGT and in respect of the petitioners' land. The said meeting was presided over by the Chief Secretary of GNCT of Delhi.

5. Learned counsel also invited attention of this Court to page 137, which is an order resulting from the deliberations held on 30.04.2015 in the meeting as aforesaid. It would be relevant to bring out the said order, which is in tabulated form, showing the entitlement of the petitioners in respect of the land in question, which is as under:-

S. No.	Name of Bhumidhar	Recorded Bhumidhari- (in Bigha-Biswa)	Area under Possession (in Bigha-Biswa)	Excess Area under encroachment (Approx) (in Bigha-Biswa)
1.	Mrs. Anjali Verma	(14-14)	(13-06)	(-) 1-08
2.	Dr. Ashish Kakkar	(11-19)	(14-16)	(+) 2-17
3.	Mr/Mrs. Kukkar	(07-06)	(17-14)	(+) 10-08
	TOTAL AREA	(33-19)	(45-16)	(+) 11-17

6. It is clear from the aforesaid order that the petitioner no.1 has been shown to be a recorded *Bhumidhar* of land admeasuring 14 bigha 14 biswa. It has also been indicated therein that the petitioner no.1 is in possession of 13 bigha 06 biswa as on the date of the meeting dated 30.04.2015. The said order very categorically indicates that that an area of 1 bigha 08 biswa had been encroached by others. In that, the legitimate portion of the land of the petitioners to the extent of 1 bigha 08 biswa is deficit in the total area of 14 bigha 14 biswa.

7. On instructions, Mr. Sood, learned counsel for the petitioners



submits that the petitioners are ready and willing to give up the encroached area of 1 bigha 08 biswa, provided that the officers of the various departments of the GNCT of Delhi do not disturb the peaceful possession of the petitioners over 13 bigha 06 biswa.

8. This Court observes that the orders of the NGT as also the minutes of the meeting dated 30.04.2015 resulting in the aforesaid tabulated order, categorically have recognized the rights of the petitioners over the said land. That apart, para 6 of the counter affidavit filed by the Deputy Conservator of South admits the right of the petitioners to raise a boundary wall on their own land. The request contained in para 6 regarding an inspection, is not agreeable to the Court. That too, after a litigation which has taken place before the NGT and ending up in the minutes of meeting dated 30.04.2015.

9. The petitioners are permitted to construct the boundary wall in the portion as stipulated above, in terms of the present Bye Laws governing the area. The petitioners undertake to intimate the Deputy Conservator of Forest (South) before commencing construction of their boundary wall.

10. Just to ensure that there is no dispute regarding the raising of the boundary wall on the land of the petitioners, a competent officer of the respondents is permitted to be present while the petitioners are constructing the boundary wall. It is expected that the petitioners shall abide by the Rule of Law and construct a boundary wall within the parameters, where the said wall existed. It is also expected that the officers of the respondents shall also abide by the Rule of Law themselves.



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11. In that view of the matter, the petition is allowed and stands disposed of alongwith pending applications.

TUSHAR RAO GEDELA, J.

MAY 17, 2024

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