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

% ***Date of Decision: 24<sup>th</sup> May, 2024***

+ **CONT.CAS(C) 744/2021**

**SAARTHI AIRWAYS PVT LTD**

**..... Petitioner**

Through: **Mr. Atul Kumar, Mr. Chandan  
Kumar, Advocates (M:9818842225)**

**versus**

**DR. B.M MISHRA & ORS.**

**..... Respondents**

Through: **Mr. Rishikesh Kr. ASC-GNCTD with  
Mr. Atik Gill, Ms. Sheenu, Advocates  
(M:9999394594)**

**CORAM:**

**HON'BLE MS. JUSTICE MINI PUSHKARNA**

**MINI PUSHKARNA, J (ORAL)**

1. The present petition has been filed alleging willful disobedience of the order dated 31<sup>st</sup> July, 2019 passed in *W.P.(C) 8277/2019*.
2. The aforesaid writ petition had been filed by the petitioner praying that the respondents be restrained from raising illegal/unauthorized construction in and on the land consisting of 12 bighas and 4 biswas, being *Mustatil No. 106, Killa No. 8 Min (3-00), 13 Min (4-00), 14 (4-08), 18 Min (0-08) and 23 Min (0-08)*, situated in the revenue estate of village Dera Mandi, Tehsil Mehrauli, New Delhi. Thus, petitioner had prayed that respondents be restrained from encroaching upon the private land of the petitioners, with further prayer to remove/ demolish the illegal/unauthorized construction. It was the case of the petitioner that respondent no.5, i.e., University of Delhi, was illegally building a boundary wall on the land



belonging to the petitioners.

3. On the other hand, it was the case of respondent no.5/University of Delhi, that it had been allotted 40 bighas of land in *Khasra Nos. 1937/1307 to 1990/1307*, in village Fatehpur Beri, District South, Delhi, for opening a Girl's Degree College.

4. Thus, a title dispute was raised by the petitioner, wherein, the petitioner claimed that the land in physical possession of respondent no.5/University of Delhi, was not the land allotted to it. However, the respondent no.5/University of Delhi, claimed allotment of the land in question, to it, by the Government of NCT of Delhi, of which, it had already taken physical possession of.

5. In view of the title dispute as regards the land in question between the parties, directions were issued in the said petition vide order dated 31<sup>st</sup> July, 2019, to demarcate the land, in order to determine the diverse claims of the parties. Thus, by order dated 31<sup>st</sup> July, 2019, directions were issued in the following manner:

“xxx xxx xxx

**11. In this view, respondent no.2 (The Deputy Commissioner, District South, Delhi) is directed to carry out the demarcation as requested by the petitioners, if not already done, within a period of eight weeks from today.**

**12. The learned counsel appearing for respondent no.2 states that although request for demarcation was made but he does not have any instructions as to whether any demarcation had been carried out pursuant to the said request. Plainly, if the demarcation has been carried out pursuant to the said request, there would be no requirement to carry out the same afresh. The petitioners would be at liberty to seek copies of the report and take such steps as may be advised.**

**13. This Court does not consider it apposite to restrain respondent**



*no.5 in any manner to carry out any activity on the land, the possession of which was handed over to it. Needless to state that if the petitioners succeed in establishing that the land in question belongs to them, the same would have to be restored to the petitioners and it would not be open for respondent no.5 to claim any equities on account of construction carried on the said land.*

xxx xxx xxx”

*(Emphasis supplied)*

6. Perusal of the aforesaid order shows, that directions had been issued to the respondents, to carry out demarcation of the land in question, in case, the same had already not been carried out. Further, directions were issued that the petitioner would be at liberty to seek copies of the Demarcation Report and take such steps, as may be advised.
7. This Court notes that the Demarcation Report has been placed on record by the respondents, along with the relevant documents. Copy of the same, has also been provided to the petitioner.
8. Learned counsel for respondents submits that after carrying out of the demarcation of the land in question, the directions issued by the court vide order dated 31<sup>st</sup> July, 2019, stand complied with.
9. Per contra, learned counsel for petitioners submits that the purported demarcation, which has been carried out by the respondents, is not a demarcation at all. He submits that the respondents have not followed the proper procedure, and the documents that have been placed on record by the respondents, purportedly as Demarcation Report, cannot be considered as Demarcation Report at all. It is submitted that petitioner is the owner of the land in question.
10. This Court is of the view that once demarcation process has been carried out by the respondents in terms of the directions passed by the court,



there is substantial compliance by the respondents and proceedings for contempt cannot continue against the respondents. Even otherwise, this Court will not adjudicate on the claims of the petitioner, as regards its ownership over the land in question, in the present proceedings.

11. This Court notes that vide aforesaid order dated 31<sup>st</sup> July, 2019, liberty has already been granted to the petitioner to establish its claim over the land in question. It is clearly recorded that if the petitioner succeeds in establishing that the land in question belongs to it, the same would have to be restored to the petitioners.

12. This Court also notes that against the aforesaid order dated 31<sup>st</sup> July, 2019 passed in W.P.(C) 8277/2019, an appeal bearing no. LPA 572/2019 had been filed, which was disposed of, in the following terms:

*“1. This Letters Patent Appeal has been preferred by the original petitioner whose W.P.(C) 8277/2019 has been finally disposed of by the learned Single Judge vide order dated 31st July, 2019.*

**2. Having heard counsel for the appellant (original petitioner) and the counsels for the respondents, it appears that the main prayer of this appellant (original petitioner) in the writ petition was about the demarcation of the property of this appellant for which this appellant (original petitioner) had preferred a demarcation application on 24<sup>th</sup> August, 2019. The fees was also paid on 11<sup>th</sup> September, 2018. This appellant is claiming to be an owner of land bearing Khasra no. 595/86 min.**

*3. It is submitted by the counsels for the respondents that demarcation of the property of this appellant (original petitioner) will be done in presence of this appellant. The demarcation of the property of this appellant (original petitioner) for khasra no. 595/86 min is not yet completed. The said demarcation process was earlier fixed to be carried on, on 30<sup>th</sup> August, 2019 but it was not carried out and that now it will be done within a period of three weeks. It is also submitted by the counsel for the Respondent Nos. 2, 3, 4 and 6 that the demarcation of the land of University of Delhi has already been done. Moreover it is further submitted by the counsel for the Respondent Nos. 2, 3, 4 and 6 that till the demarcation process of the land bearing*



*khasra no. 595/86 min is over, there shall be no demolition in the said khasra, nor there shall be any construction allowed during the process of demarcation of land bearing khasra no. 595/86 min.*

**4. In view of the aforesaid submissions and looking to the facts and circumstances of the case, we hereby direct the Respondent Nos. 2, 3 and 4 to carry out demarcation of the land bearing khasra no. 595/86 min upon which this appellant (original petitioner) is claiming ownership. The demarcation process has nothing to do with the ownership and if any other party is also claiming ownership, the issue of the ownership will have to be decided by the concerned trial court as per Section 15 of the CPC.**

*5. We also direct the Respondent Nos. 2, 3 and 4 to complete the demarcation of the land bearing khasra no. 595/86 min in presence of this appellant (original petitioner).*

*6. We also direct the Respondent Nos. 2, 3 and 4 not to demolish any superstructure till the demarcation process of the land bearing khasra no. 595/86 min is over.*

*7. We also direct the Respondent Nos. 2, 3, 4 and other respondents not to carry out any construction in the land bearing khasra no. 595/86 min till the demarcation process is over.*

*8. Counsel appearing for the appellant (original petitioner) is confining his prayer only for the demarcation of the land bearing khasra no. 595/86 min only and not for the demarcation of land bearing khasra no. 1307 of Village Fatehpur Beri, New Delhi at this stage.*

*9. LPA is disposed of in view of the aforesaid observations and the order dated 31<sup>st</sup> July, 2019 passed by the learned Single Judge is modified to the aforesaid extent.*

xxx xxx xxx”

*(Emphasis Supplied)*

13. Reading of the aforesaid order shows that directions for carrying out demarcation of the land, wherein, the petitioner herein was claiming ownership, were reiterated by the learned Division Bench. Further, it was also held in categorical terms by the learned Division Bench, that the



demarcation process had nothing to do with the ownership and if any party was claiming ownership, the same will have to be decided in Trial Court proceedings.

14. Accordingly, if the petitioner has any grievance with the demarcation carried out by the respondents, the petitioner is at liberty to challenge the same in appropriate proceedings, as such issues, regarding laying challenge to the demarcation process, cannot be decided in the present proceedings. Likewise, the petitioner is at liberty to seek remedy in appropriate proceedings, in accordance with law, to establish its claim of ownership over the land in question.

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

**MINI PUSHKARNA, J**

**MAY 24, 2024**

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