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

+ **W.P.(C) 11628/2024**

YUDHVIR SINGH MALIK

.....Petitioner

Through: **Mr. Pankaj Kumar Sharma, Adv.**

versus

GOVT OF NCT OF DELHI & ORS.

.....Respondents

Through: **Mr. Ajjay Aroraa and Mr. Kapail Dutta, Advs. for MCD.**

Mr. Avni Singh, PC with Mr. Sahil Sharma, Adv. for R-1 &3.

Ms. Prabhsahay Kaur, SC with Mr. Bir Inder Singh, Adv. for DDA.

Mr. Vineet Dhanda, CGSC for R-5.

CORAM:

HON'BLE MR. JUSTICE PURUSHAINDR KUMAR KAURAV

ORDER

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18.09.2024

1. Learned counsel appearing for the respondent-DDA submits that the status report has been filed. The same is, however, not on record. A copy of the same is handed over during the course of hearing.
2. Learned counsel is directed to place the same in the digital record of the Court.
3. The status report filed by the respondent-DDA has been made available to the Court. The Court has perused the same.
4. Paragraph nos.4 to 7 of the status report filed by the respondent-DDA read as under:-



*“4. That as per the records of the Answering Respondent No. 2, Khasra No. 205/1 (37-03) and 205/2 (3-3) of Village Masoodpur, Vasant Kunj, New Delhi were acquired for the Answering Respondent No. 2/ DDA vide Award No. 2040 and 42/86-87 respectively for the purpose of ‘Planned Development of Delhi’ on the said Khasra's. A copy of relevant portion of Award No. 2040 is annexed herewith as **ANNEXURE R-1**. A copy of Award No. 42/86-87 is annexed herewith as **ANNEXURE R-2**.*

*5. That the physical possession of Khasra No. 205/1 (37-03) and 205/2 (3-3) was taken by the answering Respondent from LAC/ L&B Department, GNCTD on 08.01.1968 and 22.09.1986 respectively. That the land was vacant land when it came into possession of the Answering Respondent. Pursuant to taking physical possession, Khasra No.205/1 (37-03) was transferred for Housing Scheme on 06.08.1982. A copy of the Possession Proceeding dated 08.01.1968 of -Khasra No. 205/1(37-03) along with its translation is annexed herewith as **ANNEXURE R-3**. A copy of the Possessing Proceedings dated 22.09.1986 of Khasra No. 205/2 (3.3) is annexed herewith as **ANNEXURE R-4**.*

*6. That the concerned officer of the Answering Respondent No. 2 conducted a physical inspection of the above said Khasra and a park was also found existing on some part of Khasra no, 205, i.e. Khasra No. 205(min). Furthermore, some built-up structures were also found on Khasra No. 205(min) and the same needs further verification- whether the structures have been sanctioned by the Answering Respondent No.2 under its Housing scheme or not. No ongoing construction was found at the site. A copy of the photographs of the built-up structures is annexed herewith as **ANNEXURE R-5**.*

7. It is submitted that there is no Tatima available for the Khasra in question i.e. Khasra No. 205. As such, it is not clear on ground as to what part is Khasra No. 205/1 and what part is 205/2, etc. which can only be determined post Demarcation, to be carried out by Revenue Dept, GNCTD/Respondent No.3. It is, therefore, requested that this Hon'ble Court may be pleased to direct the Respondent No. 3 to carry out demarcation of Khasra No. 205/1 (37-03) and 205/2 (3-3) so that the Answering Respondent No. 2/DD A can take action in accordance with law with respect to any unauthorized construction found resultant thereof.”

5. It is thus seen that the concerned respondent is awaiting the outcome of the demarcation of Khasra No. 205/1(37-03) and 205/2 (3-3). The status report placed on record by the respondent-Corporation would also indicate



that the property in question forms part of *Sarkar Daulatmadaar*. According to the status report, there appears to be a Civil Suit pending before the competent Court.

6. Paragraph nos.4 to 7 of the status report filed by the respondent-Corporation read as under:-

"4. That at the outset considering the aforementioned relief, it is submitted that the instant Writ Petition is not maintainable qua the answering Respondent MCD, it is submitted that considering the relief as sought by the petitioner in the instant Writ Petition so far as answering Respondent - MCD is concerned, the site in question i.e. Khasra No. 205/1, Village Massoodpur, New Delhi has been got inspected through area field staff of Building Department-II of South Zone MCD and also referred to the record available with the department.

5. That on inspection and referring to the record, it has been revealed that the aforesaid property / Khasra falls under jurisdiction of Revenue Department, Government of NCT of Delhi / Delhi Development Authority (DDA), which keeps and maintain the record of particular piece of land with their Khasras. Hence, keeping in view of the same, the Revenue Department / DDA is to take necessary step/action.

*6. That moreover, it is also pertinent to mention here that as also admitted by the petitioner herein in the instant Writ Petition, that regarding his grievances, a Civil Suit bearing CS SCJ No. 1654/2023 titled as "Yudhvir Malik VS Dharambir Malik and Ors." has also been filed before the Hon'ble Court of Ms. Niharika Kumar Sharma, JSCC/ASCJ/GJ, Patiala House, Court, New Delhi, wherein the answering Respondent - MCD had also filed its status report taking the above stand and also about the fact that the Building Department -II of South Zone - MCD had also sent a letter bearing No. 2957/Bldg-II/SZ/2023 dated 18/12/2023 to SDM, Mehrauli, New Delhi stating therein that the property in question forms part of 'सरकार दौलतमदार'. It is also pointed out that this Civil Suit is pending disposal and is now listed for 23/10/2024. The copy of status report as filed by answering Respondent - MCD and copy of letter dated 18/12/2023 is already annexed alongwith the instant Writ Petition as **Annexure - P-11**.*

7. That furthermore, the Building Department -II of South Zone - MCD has also again sent a letter bearing No. D/1500/EE(B)-II/Bldg/SZ/2024 dated 08/08/2024 to SDM Mehrauli / Revenue Department Govt. of NCT of Delhi and Deputy Director (LM) DDA, Vikas Sadan, INA, New Delhi with



*the request to take necessary action as warranted on their part, since the property is included in the land as 'सरकार दौलतमदार'. The copy of the said letter dated 08/08/2024 is annexed herewith as **Annexure -A.**"*

7. It is, thus, seen that the matter requires to be examined with the assistance of various Departments including the Department of Revenue. The Court takes note of the mechanism put in place in terms of respondent-DDA notification dated 08.03.2019 pursuant to the directions passed by the Supreme Court in W.P. (C) 4677/1985 titled as **M.C. Mehta v. Union of India**.
8. While dealing with an almost similar controversy, the Court in W.P.(C) 12033/2024 has relegated the petitioner therein to seek appropriate recourse before the Special Task Force ["STF"].
9. Looking at the nature of the controversy and the stand taken by the respective Departments, the Court finds that if the grievance raised in the instant writ petition is agitated before the STF, the said authority which consists of inter-departmental officials would be in better position to deal with the same, effectively.
10. In view of the aforesaid, the Court relegates the petitioner to the STF and in case, the petitioner approaches the same along with a copy of this order, let the STF to deal with the same with due expedition.
11. All rights and contentions of the parties are left open.
12. The petitioner shall be at liberty to enclose a copy of this petition with all annexures and the status report filed by the respective respondents.

PURUSHAINDRA KUMAR KAURAV, J

SEPTEMBER 18, 2024/p