



\$~163

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

+ **W.P.(C) 11872/2024 & CM APPL. 49361/2024, CM APPL.
49362/2024**

SANJAY KUMAR CHAUHAN

.....Petitioner

Through: **Mr. Abhishek Kukkar and Mr. Aman
Shokeen, Advocates.**

versus

GOVT OF NCT OF DELHI

.....Respondent

Through: **Ms. Mehak Nakra, ASC.**

CORAM:

HON'BLE MR. JUSTICE SANJEEV NARULA

ORDER

28.08.2024

%

1. The Petitioner asserts that he is a co-owner of the property bearing no. C-46, measuring 250 sq. yards, in Khasra No. 216, situated at Chhattarpur Enclave, Phase-II, falling in the Revenue Estate of Village of Chhattarpur, Tehsil Saket, MB Road, New Delhi-110074¹.
2. To substantiate the claim of his ownership over the subject property, Petitioner has produced on record documents collectively marked as 'Annexure P-2', which includes Khasra Girdawari of the years 2006-2010 of Village Chattarpur, General Power of Attorney, Agreement to Sell, Possession Letter, affidavit of receipt and will of the Late father of the Petitioner, all dated 28th December, 2018. The Petitioner urges that even though the subject property is located in an unauthorised colony, however,

¹ "subject property"



an application for regularisation is pending consideration before the authorities since 2004. Nonetheless, Petitioner asserts that he is the lawful owner of the subject property on the basis of the documents mentioned hereinabove.

3. Through the instant writ petition, the Petitioner impugns demolition notice dated 08th August, 2024² issued by the Respondent - Office of Deputy Conservator of Forest (South), Department of Forest and Wildlife, Government of NCT of Delhi, which is to the following effect:

“NOTICE

Whereas in the matter in OA No. 58/2013 titled Sonya Ghosh Vs GNCT Delhi in the Hon’ble National Green Tribunal, directions were issued vide order dated 15.01.2021 wherein

“There is urgent need to take necessary measures to protect the Ridge by taking necessary steps... protection by appropriate measures ... No non forest activity is permissible in Ridge area... We direct that the Delhi Government through Chief Secretary Delhi ... actions to be taken by the Delhi Government may include suitable protection by fencing wall and vigilance. Identification of the remaining area and action plan for removing the encroachments be ensured within next three months. Execution of the action plan will be primarily under the Chief Secretary Delhi who is also the Chairman of the Ridge Management Board.”

Whereas it is identified that Khasra No. 205 of Village Chhatarpur Tehsil Saket is notified as Reserve Forest Land as per Notification F.10(42)-I/PA/DCF/93/2012-17(I) dated 24.5.1994, No, F.I(29)PA/DCF/95 dated 02.04.1996. This land has been encroached by you which is a violation UNDER Section 26 of the Indian Forest Act 1927.

And therefore, all encroachers are directed to vacate the Forest land within 7 days beyond which all structures will be demolished and all material found on forest I land will be seized as tools of encroachment. The cost of demolition shall be recovered from the encroacher found at the site.

**DY. CONSERVATOR OF FORESTS
SOUTH FOREST DP/ISION”**

4. The notice is a direct consequence of the orders passed by the

² “Impugned notice”



National Green Tribunal in OA No. 58/2013³ which has mandated strict measures to protect the Ridge area from non-forest activity. The impugned notice explicitly identifies Khasra No. 205 of Village Chhattarpur to be encroaching upon reserve forest land, as notified under notifications dated 24th May, 1994 and 02nd April, 1996 and alleges violation of Section 26 of the India Forest Act, 1927. Accordingly, the Deputy Conservator of Forests, South District, has found the Petitioner to be encroaching on the Reserved Forest Land as designated in the aforementioned notifications.

5. On the other hand, the Petitioner places reliance on a demarcation report dated 23rd September, 2005, prepared by the SDM, in the presence of Forest Guard, Patwari, Office Kanungo and Tehsildar Haus Khas.

6. The translated copy of the demarcation report placed on record indicates as follows:

“Thus, the demarcation of Kh. No. 216 is completed. Some portion of land of Forest department lies in the plot of the applicant and some portion of Applicant’s land exists in the land of forest department. Around 10-12 Gaj more of land of applicant exist under the possession of Forest land. Hence, the applicant is willing to handover the possession of his private land which is already in possession of forest department and willing to retain the land of Forest Department. The site map is annexed herewith & report is submitted for further action.

Note:- The Forest Department & applicant are satisfied with the report.”

7. Ms. Mehak Nakra, ASC for Respondent, states that the Petitioner first ought to approach the Forest Settlement Officer under the Indian Forest Act, 1927, for redressal of their grievances. She submits that the exercise of determining whether the land lawfully belongs to Petitioner or falls under the notified Reserved Forest Area, is an exercise that cannot be undertaken in the present proceedings.

³ Titled Sonya Ghosh v. GNCT Delhi



8. Counsel for Petitioner states that they are agreeable to approach the Forest Settlement Officer, however, considering the fact that the demolition action has partly been carried out by the Respondent, the Petitioner must be afforded time till the matter is considered by the Forest Settlement Officer.

9. In light of the above, the present writ petition is disposed of with following directions:

- (i) Petitioner is directed to approach the Forest Settlement Officer by filing an appropriate application under the Indian Forest Act, 1927 and enclosing therewith the demarcation report dated 23rd September, 2005, for the purpose of identifying the encroachments, if any, within one week from today.
- (ii) Till such time the Forest Settlement Officer finally decides application so preferred by the Petitioner, no further action shall be undertaken by Respondent under the impugned demolition notice dated 08th August, 2022.

10. It is clarified that this interim protection is only granted to allow the Petitioner to avail alternate remedies and the same does not reflect Court's opinion on the merits of the case. All rights and contentions of the parties are left open.

11. With the above directions, the present writ petition is disposed of, along with pending application(s).

SANJEEV NARULA, J

AUGUST 28, 2024

d.negi