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

+ **W.P.(C) 17778/2024**

VISHAL ARYA

.....Petitioner

Through: Mr. Sushil Kumar, Advocate.

versus

GOVT. OF NCT OF DELHI AND ORS

.....Respondents

Through: Mr. Ashish Batra, Senior Panel
Counsel for UOI/Respondent No 2 with SI
Priyanka, PS: Alipur.

Ms. Saroj Bidawat, Standing Counsel for MCD.

CORAM:

HON'BLE MS. JUSTICE JYOTI SINGH

ORDER

23.12.2024

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CM APPL. 75704/2024

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

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3. This writ petition is preferred on behalf of the Petitioner under Article 226 of the Constitution of India for direction to the Respondents to not obstruct or interfere in construction work of the boundary wall around his land comprised in Khasra No. 14//6 (4-03) & 15 (5-05) measuring 1500 sq. yds. out of total land measuring 9400 sq. yds. situated in the revenue estate of Village Bakhtawarpur, Delhi, owned by the Petitioner.
4. Factual matrix to the extent necessary and as averred in the writ petition is that Petitioner is the owner/Bhumidar and in actual physical



possession of 30/188 share in agricultural land total ad measuring 9 bigha 8 biswa out of Khasra Nos. 14//6 (4-03) & 15 (5-05) situated in revenue estate of Village Bakhtawarpur, Delhi purchased through registered sale deed from its recorded owner Sh. Tej Singh. By Notification dated 20.11.2019 bearing No. F7(128)/DLB/2019000580156/14600-15 under Section 507(a) of Delhi Municipal Corporation Act, 1957, Village Bakhtawarpur was urbanised.

5. It is further averred that being *bona fide* purchaser and in actual possession of the land, Petitioner intended to construct a boundary wall around the subject land to protect his land from garbage dumping, trespassers and encroachers. However, when the Petitioner started to raise the boundary wall, officials of Respondent No. 2 visited the property and stopped the construction of the boundary wall on the ground that Petitioner had not secured permission for raising the wall and this compelled the Petitioner to approach this Court.

6. Learned counsel for the Petitioner urges that construction of boundary wall up to 5 feet height is permissible in law and in this context relies on the judgment of this Court in ***Gaon Sabha Nanakheri v. Sucheta Memorial Trust, 2018 SCC OnLine Del 11431***, wherein this Court held that though no height of the boundary wall is prescribed or specified under the Delhi Land Reforms Act, 1954 ('1954 Act') or its Rules, however, since some inspection has to take place with respect to agricultural land, wall can be constructed by a land holder around his land upto a height of 5 feet. He also relies on orders passed by Co-ordinate Benches of this Court in '***Smt. Sudesh & Anr. v. S.H.O. Police Station Kanjhawala & Anr.***', ***W.P.(C) No. 7616/2023, decided on 31.05.2023***; '***Prashant Mudgal and Anr. v. Govt. of NCT of Delhi and Anr.***', ***W.P.(C) No. 11795/2023, decided on 22.09.2023***;



‘Sh. Neeraj Jain and Anr. v. Govt. of NCT of Delhi & Anr., W.P. (C) No. 4530/2024, decided on 26.04.2024; and of this Court in ‘Vijay Maheshwary v. Govt of NCT of Delhi and Ors.’, W.P. (C) No. 16166/2024, decided on 21.11.2024, wherein similar orders have been passed. It is also argued that in view of Clause 2.0.1(d)(vii) of Chapter II of Unified Building Bye-Laws for Delhi, 2016, no permission is required for constructing a boundary wall.

7. Having so urged, learned counsel for the Petitioner, on instructions, submits that Petitioner undertakes that he will not raise the height of the boundary wall beyond 5 feet and it would be open to the concerned officers of the Respondents to inspect the property and in case of any violation take necessary action.

8. Issue notice.

9. Learned counsels, as above, accept notice on behalf of the respective Respondents.

10. The grievance of the Petitioner is in a narrow compass. Petitioner is stated to be the lawful owner of the subject land and limited relief sought is for a direction to the Respondents to not obstruct the Petitioner from constructing a boundary wall around the land ad measuring 30/188 share in agricultural land total ad measuring 9 bigha 8 biswa out of Khasra Nos. 14//6 (4-03) & 15 (5-05) i.e. 1500 sq. yds. out of total land 9400 sq. yds. situated in the revenue estate of Village Bakhtawarpur, Delhi, upto a height of 5 feet, which is permissible under Bye-Law No. 2.0.1(d)(vii) of Chapter 2 of the Unified Building Bye-Laws for Delhi, 2016, which stipulates that construction/ reconstruction of a boundary wall is permissible upto a certain height.

11. Heard counsels for the parties.



12. In view of the orders passed by this Court, as aforementioned and in light of Clause 2.0.1(d)(vii) of Chapter II of Unified Building Bye-Laws for Delhi, 2016, this writ petition is disposed of with a direction to Respondent No. 1 not to obstruct or hinder the Petitioner in constructing the boundary wall upto a maximum height of 5 feet around the subject land. It is made clear that Petitioner will abide by the undertaking given to this Court and not raise the height of the wall beyond the permissible limit of 5 feet. It will be open to the District Magistrate of the concerned area to visit the subject land for inspection to ensure that no unauthorised construction is raised by the Petitioner and in case any such construction is found, necessary action may be taken in accordance with law.

JYOTI SINGH, J

DECEMBER 23, 2024/shivam