



\$~74

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

+ W.P.(C) 2309/2025

NEERAJ JAIN & ANR.

.....Petitioners

Through: Mr. Deepak Singh Thakur, Ms.
Komal Verma, Ms. Bhavna
Sharma, Advocates.

versus

GOVT OF NCT OF DELHI & ANR.

.....Respondents

Through: Ms. Niyati Sharma, Mr. Saurabh
Kumar Kaushik, Mr. Hardik
Malik, Advocates.

CORAM:

HON'BLE MR. JUSTICE PRATEEK JALAN

ORDER

% **21.02.2025**

CM APPL. 10949/2025 (for exemption)

Exemption allowed, subject to all just exceptions.

The application stands disposed of.

W.P.(C) 2309/2025

1. The petitioners have filed this writ petition under Article 226 of the Constitution, against the Government of National Capital Territory of Delhi, and against the SHO, P.S. Samaypur Badli, for the following reliefs:

*“(a) Issue an appropriate writ, order, or direction restraining the Respondents from obstructing the construction of the Boundary Wall around the land bearing Khasra No. 40/21 (4-16) situated in the revenue estate of village Khera Kalan Delhi in compliance of the order dated 26.04.2024 of this Hon’ble Court in **Writ Petition (Civil) bearing No. W.P. (C) 4530/2024, titled as Neeraj Jain and Others Vs. Govt, of NCT of Delhi and Another.***



(b)Direct the respondents/ appropriate police authorities to ensure the safety and protection of the Petitioners, their security guard, and the temple from any further unlawful acts by the intruding villagers and their family members.

(c)Issue such other and further reliefs as may be deemed fit and proper in the facts and circumstances of the case.”

2. It is the petitioners’ contention that their ancestors were co-owners of land measuring 4 bigha and 17 biswa in Khasra No. 40/21, in Village Khera Kalan, Delhi. The petitioners claim to have inherited the said land by way of a Will dated 26.08.1960, executed by one Mr. Lakhi Ram in favour of Mr. Udmi Ram, who was the grandfather of the petitioners herein.

3. The petitioners state that they applied for the demarcation of the land, which was undertaken in the year 2019. However, a local villager, namely Shri Naval Kishore is stated to have trespassed into the vacant portion of the land in the year 2021, in respect of which petitioner No. 1 filed an application under Section 156(3) of the Code of Criminal Procedure, 1973 [“CrPC”], before the Metropolitan Magistrate. Pursuant to the order of the learned Metropolitan Magistrate, FIR No. 631/2023 has been registered against Mr. Naval Kishore. It may be noted that Mr. Naval Kishore is not party to this writ petition.

4. The petitioners, thereafter, claim that they sought to construct a boundary wall around their property, which was obstructed by local villagers. They, therefore, approached the Court of the Metropolitan Magistrate again, under Section 156(3) of the CrPC, on 30.03.2024. The petitioners’ application remains pending.

5. In the meanwhile, they filed W.P.(C) 4530/2024 before this Court against the revenue authorities and the police, which culminated in an



order dated 26.04.2024 in the following terms:

“7. Mr. Bhardwaj, learned counsel appearing for respondents no.1 & 2 submits on instructions that none of the officials of either the respondents no.1 or 2 had at all interfered in such construction and submits that in any case, they would not obstruct any such construction, if it is within the four corners of the law.

8. In view of the above, the petition is disposed of with the directions that the petitioners will not be obstructed from constructing the boundary wall around the Khasra No.40/21 (4-16), situated in the revenue estate of Village Khera Kalan, Delhi.

9. The aforesaid order is subject to any objection being raised by the Municipal Corporation of Delhi, strictly in accordance with law.”

6. According to the petitioners, they have thereafter once again attempted to construct the boundary wall, but are being obstructed by local villagers. Although it has not been mentioned in the body of the writ petition, there is an averment in the list of dates, that the petitioners have filed a civil suit [CS No. 728/2019] against private parties, seeking an injunction with respect to the same land. The plaint and the orders of the Civil Court have not been annexed to the petition. Upon enquiry, learned counsel for the petitioners states that an application under Order XXXIX, Rules 1 and 2 of Code of Civil Procedure, 1908, was also filed with the suit and has been dismissed by the Civil Court. Learned counsel states that he is not aware as to whether the petitioners herein have filed an appeal against the order of the Civil Court. Petitioner No. 1, who is present in Court, states that no appeal has been filed.

7. As far as the present writ petition is concerned, the only respondents are the government authorities. The order of this Court dated 26.04.2024, already takes care of the petitioners' reliefs against the government authorities.

8. The second prayer for police protection to the property of the



petitioners against the “*intruding villagers and their family members*” is, in my view, closely related to the civil proceedings that have been filed by the petitioners, and in which they have been denied injunctive relief. It is always open to the petitioners to seek their remedies against the order of the Civil Court, but no relief can be granted in this writ petition, which would have the effect of reversing the order of the Trial Court. In fact, the act of approaching this Court under Article 226 of the Constitution, without disclosing that an application filed in the civil suit has already been dismissed is, in my view, tantamount to suppression of a material fact.

9. The writ petition is, therefore, dismissed without prejudice to the rights of any parties in the pending civil or criminal proceedings, or in any appeal that may be filed therein. The petitioners will deposit cost of Rs. 20,000/- with the Delhi High Court Legal Services Committee [*UCO Bank, Delhi High Court, Shershah Road, New Delhi, Account No. 15530110008386, IFSC Code- UCBA0001553*].

PRATEEK JALAN, J

FEBRUARY 21, 2025
‘Bhupi’/SD/