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

+ **W.P.(CRL) 1175/2025**

SMT. KAMLAWATI

.....Petitioner

Through: **Mr. Akshay Aggarwal, Advocate.**

versus

THE STATE & ORS.

.....Respondents

Through: **Mr. Amol Sinha, ASC with Mr. Kshitiz Garg, Mr. Ashvini Kumar, Mr. Nitish Dhawan, Mr. Manan Wadhwa and Mr. Anshul Sharma, Advocates for the State. SI Jag Mohan, PS: Vijay Vihar.**

CORAM:

HON'BLE MR. JUSTICE SANJEEV NARULA

ORDER

17.10.2025

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1. The Petitioner claims to be owner of property bearing house no. S-2/2, Phase-1, Budh Vihar, New Delhi-110086. She alleges that Respondents no. 4 to 6 are local land mafia and they are illegally constructing on her property with the connivance of local police. Despite multiple complaints and a pending civil suit acknowledging her ownership, the police have failed to act and are allegedly colluding with the encroachers. In such circumstances, the Petitioner filed the present petition seeking following prayers:

“(a) ISSUE A WRIT OF MANDAMUS THEREBY DIRECTING THE RESPONDENT NO. 1 TO 3 TO GIVE THE PROTECTION TO THE PRECIOUS LIFE OF THE PETITIONER AND HER FAMILY MEMBERS INCLUDING HER SON AGAINST THE



RESPONDENT NO. 4 TO 6 AND PRESERVING THE PRIMACY OF RULE OF LAW BY SAFEGUARDING HER SACROSANCT CONSTITUTIONAL AND FUNDAMENTAL RIGHT I.E RIGHT TO PROPERTY, RIGHT TO LIVELIHOOD AND RIGHT TO LIFE AS GUARANTEED UNDER ARTICLE 21 AND 300A OF CONSTITUTION OF INDIA.

- (b) ISSUE A WRIT OF MANDAMUS THEREBY DIRECTING THE RESPONDENT NO. 1 herein to forthwith transfer the investigation of petitioner's complaint dated 13.08.2024 AND 27.03.2025 to independent investigation agency under the direct supervision of Deputy Commissioner of Police (Vigilance) and to conclude and conduct the preliminary inquiry in a fair, impartial and time bound manner.*
- (c) ISSUE A WRIT OF MANDAMUS or any other writ in the nature thereof, further directing the respondent no. 1 to submit a comprehensive Action Taken Report before this Hon'ble Court within a time frame manner as deemed appropriate by this Hon'ble Court, clearly delineating the specific action initiated against the delinquent officers, for judicial scrutiny and issuance of further directions as may be warranted by this Hon'ble Court.*
- (d) ISSUE A WRIT OF MANDAMUS THEREBY DIRECTING THE RESPONDENT NO. 4 to secure the end of justice by forthwith seizing, securing and preserving the most vital piece of evidence that is ephemeral in the name viz. Digital Video Recorder (DVR) of CCTV Cameras installed near the house of petitioner, imperatively required inter-alia for carrying out fair and impartial investigation, vindicating the petitioners case, bringing home the guilt of the accused persons and consequently for the just adjudication of the case.*
- (e) ISSUE A WRIT OF MANDAMUS THEREBY DIRECTING THE RESPONDENT NO. 1 to direct the concerned authority to demolish the illegal construction in the property of petitioner by respondent no. 4 to 6 after criminal trespass and hand over the possession of property to the petitioner herein."*

2. On 15th April, 2025, there was no appearance on behalf of the Petitioner and the following order was passed:

"CRL.M.A. 11189/2025 CRL.M.A. 11190/2025 (exemption)

1. Allowed, subject to all just exceptions.

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2. None appears for petitioner.

3. Petitioner has sought various reliefs including protection from respondents no.4-6 and transfer of her complaints dated 13.08.2024 and



27.03.2025, alleging that she was forcibly dispossessed of her immovable property.

4. Learned ASC accepts notice and submits that the complaints in question have not been registered as FIR because the petitioner has not been joining inquiry and despite repeated directions, has not been producing her title documents. In this regard, it appears that according to the petitioner when she was visiting hospital, she was carrying the title documents but misplaced the same.

5. Since none appears for petitioner, relist on 22.07.2025.”

3. On 07th May, 2025, when the matter was listed pursuant to the early hearing application, the Court passed the following order:

“CRL.M.A. 14258/2025 (early hearing)”

1. On last date, which was the first date of hearing, none appeared for petitioner, but the matter was taken up and examined. On last date, learned ASC accepted notice of this petition, which is for various reliefs including transfer of complaints alleging that the petitioner was forcibly dispossessed of her immovable property. Learned ASC disclosed on last date that the complaints in question have not been registered since despite repeated directions, the petitioner has not been producing her title documents.

2. In fact, one of the prayer clauses of the petition is for directions to demolish the allegedly illegal construction in the property and to hand over possession of the property to the petitioner. On these reliefs, already a civil suit is pending between the parties. Even in this early hearing application, main concern of the petitioner appears to be to somehow stop construction activity, which issue is already pending in civil court.

3. Having not appeared on the date fixed, the petitioner now wants early hearing, despite the counsel for petitioner being fully aware about the heavy board condition of this Court. The application is completely frivolous and the same is dismissed with costs of Rs. 5000/- to be deposited by the petitioner with DHCLSC within one week.

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4. List on the date already fixed i.e., 22.07.2025.”

4. On 22nd July, 2025, again there was no appearance on behalf of the Petitioner. Mr. Amol Sinha, ASC for the State, further points out that, that notices were issued to the Petitioner pursuant to her complaints, but she failed to join the inquiry or cooperate in the investigation. Counsel for the



Petitioner, however, submits that no such notice was ever received.

5. Be that as it may, since the Petitioner's complaints are being acted upon, if the Petitioner is inclined to cooperate in the inquiry, she may appear before the concerned Investigating Officer within one week from today. The Investigating Officer shall thereafter take necessary steps in accordance with law.

6. Insofar as the prayer for transfer of investigation to an independent agency is concerned, at this stage, when the Petitioner herself has not joined the inquiry, no case is made out for such transfer. The Petitioner must first cooperate with the investigation, and if she remains aggrieved, she shall be at liberty to avail appropriate remedies in accordance with law.

7. As regards the relief pertaining to demolition of the alleged illegal construction and possession of the property, the same are subject matter of a pending civil suit and even otherwise cannot be entertained in the present proceedings. The Petitioner shall be at liberty to avail appropriate legal remedies, if so advised.

8. The Court has not commented on the merits of case and all rights and contentions of the parties are left open.

9. With the above observations, the present petition is disposed of.

SANJEEV NARULA, J

OCTOBER 17, 2025

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