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

+ **W.P.(C) 16360/2025, CM APPL. 66986-87/2025**

DINESH GUPTA

.....Petitioner

Through: Mr. Sunil Dalal, Sr. Adv. With Mr. Sanjay Singh, Mr. Rajiv Singh, Ms. Shipra Bali, Mr. Bharat Khurana, Mr. Sarthak Malhotra and Mr. A.S. Shera, Advs.

versus

**GOVT. OF NCT OF DELHI THROUGH SDM/(KAPASHERA)
CONVENOR(STF) & ANR.**

.....Respondents

Through: Mr. Manashwy Jha, Panel Counsel, GNCTD for R-1.

CORAM:

HON'BLE MR. JUSTICE AVNEESH JHINGAN

ORDER

29.10.2025

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1. This petition is filed for quashing of restraint order dated 09.10.2025 and order dated 10.10.2025 passed by the Sub Divisional Magistrate ('SDM') for removal of illegal construction/plotting on khasra No.27/4/2(0-4), 5/2(0-4), 6(4-5), 7(4-16), 27/3/1(0-6), 4/1(4-12), 5/1(4-12) situated in revenue estate of Village Raghopur, New Delhi (for short 'land in question'). Further directions are sought restraining the respondents from carrying demolition on the land in question in case a boundary wall is raised. The last prayer is for seeking compensation for illegal demolition of the boundary wall.

2. The facts as pleaded are that the petitioner purchased from Joginder



Singh land measuring 4 acres in the land in question. The petitioner vide order dated 24.09.2025 was granted permission by the SDM for erection of the boundary wall. The permission was subject to the conditions mentioned therein. The petitioner erected the wall around the agricultural land. On 09.10.2025, the SDM, on the basis of complaint/report of the halka patwari with regard to illegal activities/construction/colonization being carried on land in question that too without permission of the competent authority, directed status quo to be maintained till further orders. The parties affected were directed to furnish the sanction plan/documents/building permissions within three working days. On 10.10.2025, the SDM noticing that illegal construction is being done on DC land bearing khasra No.27/4/2(0-4), 5/2(0-4), 6(4-5), 7(4-16), 27/3/1(0-6), 4/1(4-12), 5/1(4-12) passed an order directing the sub divisional level special task force to act on unauthorized construction activities. It is pleaded that on 15.10.2025 the boundary wall surrounding the agricultural land of the petitioner was demolished without serving notice.

3. Learned senior counsel for the petitioner submits that the restraint order dated 09.10.2025 is passed in violation of principles of natural justice and without serving the notice, the boundary wall demolished by the respondents.

3.1 Reliance is placed upon the decision of this Court in ***Gram Sabha Nankheri v. Sucheta Memorial Trust***; 2018:DHC:6111 to contend that for raising boundary wall upto the height of five feet no permission is required. Decision of this Court in ***Vijay Maheshwary v. Govt. of NCT of Delhi and Ors.*** passed in W.P.(C) 16166/2024 is relied upon to fortify prayer for direction to respondents not to interfere in construction of wall.



4. As per case of the petitioner, the boundary wall constructed around the land in question was demolished on 15.10.2025.

5. On a pin pointed query during the course of hearing, it is not disputed that the restraint order dated 09.10.2025 *albeit*, late but was served on the petitioner and till date no response has been filed by the petitioner before the SDM, attaching the order dated 24.09.2025 granting permission to the petitioner to raise the boundary wall or claiming that no permission in view of decision in ***Gram Sabha Nankheri (supra)*** is required for construction of five feet boundary wall and making a factual claim that no other construction activity was carried out on the land in question apart from the erection of the boundary wall.

6. From perusal of the order dated 09.10.2025, it is evident that the illegal construction/plotting/unauthorized colonization in khasra No.27/4/2(0-4), 5/2 (0-4), 6(4-5), 7(4-16), 27/3/1(0-6), 4/1(4-12), 5/1(4-12) is restrained and status quo was ordered to be maintained till further order and sanction plans, documents and building permissions were to be produced by effected parties to establish that the construction done was in compliance with the statutory provisions and law.

7. The opening para of the restraint order refers to a report/complaint of the halka patwari with regard to the construction/colonization activities being carried out on the land in question. In absence of the response filed by the petitioner that there is a permission to erect boundary wall and in fact, no permission is required and that apart from boundary wall and no other construction activity is being carried out, the factual foundation of case has not been ascertained and no case for interference is made out in writ jurisdiction.



8. It would be apposite to mention that in order dated 10.10.2025, it is mentioned that the encroachers are carrying illegal construction on land in question which is DC land, thus disputed question of facts involved, on one hand the petitioner claims to be the owner of the agricultural land whereas as per the order dated 10.10.2025, it is DC land.

9. The petitioner shall be at liberty to file a response to the restraint order dated 09.10.2025 to show that the petitioner is the owner of the agricultural land and apart from construction of the boundary wall as permitted under the statute and as per the permission granted, no other illegal construction activity is being carried upon on the land in question, and hence, the restraint order is not applicable on the petitioner. There is no doubt that in such an eventuality a response being filed, the SDM shall consider the same, in accordance with law expeditiously.

10. The reliance on decision of this court in ***Gram Sabha Nankheri (supra)*** to argue that no permission is required for erecting boundary wall need not be gone into at this stage in view of permission dated 24.09.2025, relied upon by counsel for the petitioner to contend that permission has already been granted for constructing the boundary wall.

11. The second prayer sought for restraining the respondents not to illegally demolish the boundary wall if raised by petitioner, is interconnected to the first relief and can be addressed by the clarification of the modification of the restraint order by the SDM on filing of the response by the petitioner.

12. The decision of this Court in ***Vijay Maheshwary (supra)*** is factually different and shall not enhance the case of the petitioner. In that case, the SDM disposed of the matter under Section 145 of the Code of Criminal



Procedure, 1973 in favour of the petitioner and directed no interference with the construction of the boundary wall upto the permissible limit and despite that order, the respondent interfered. Whereas in the present case no response has been filed to order dated 09.10.2025 and as per the case of the petitioner, the boundary wall has already been demolished and the protection is sought for safeguarding future construction.

13. The prayer for claiming compensation for demolition of the boundary wall needs adducing of evidence and the petitioner is relegated to avail the remedies in accordance with law.

14. The writ petition is disposed of.

AVNEESH JHINGAN, J

OCTOBER 29, 2025/ ha

Reportable:- **Yes**