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

+ CRL.REV.P. 534/2018

BALMIKI PRASAD SINGH & ANRPetitioners

Through: Mr. Barun Kumar Sinha, Mrs. Pratibha Sinha and Mr. Sneh Vardhan, Advocates.

versus

NCT OF DLEHI & ORSRespondents

Through: Ms. Richa Dhawan, APP for the State.

Insp. Lalit Kumar, P.S. DIU/East.

Mr. Yatendra Sharma and Mr. Prateek Sharma, Advocates for R-2, 3 & 4.

CORAM:

HON'BLE MS. JUSTICE MANMEET PRITAM SINGH ARORA

ORDER

% **19.02.2025**

1. The present petition has been filed under Section 397 read with Section 482 of Criminal Procedure Code ('Cr.P.C.'), seeking following relief:

“(i) To set aside the **impugned order dated 18.05.2018** passed by Ld. SDM, Mayur Vihar in Case No. SDM(MV)/Cr.PC.145/P-3/2017 titled as "State Vs Party No.1, Sh. Subodh Kant Sahay & Ors and Party No.2, Sh. Balmiki Prasad Singh & Ors.

(ii) **To direct the Ld. SDM, Mayur Vihar to handover the possession of land** of All India Panchayat Parishad, Panchayat Dham situated in Khewat No.8/29, Khasra No.368, Village Gharonda Neem Ka Banger, near Patparganj, Mayur Vihar, Phase-1, Delhi, along with building and other structure to the petitioners.”

(Emphasis Supplied)

2. Learned counsel for the Petitioner has placed reliance upon the order dated 25.04.2017 passed by the learned sub-Divisional Magistrate (SDM) and the subsequent order dated 03.10.2017 passed by the learned Special



Judge setting aside the order dated 25.04.2017; and remanding the parties to fresh proceedings before the learned SDM.

2.1 He relies upon the final order dated 18.05.2018 passed by the learned SDM wherein the relevant portion reads as under:

“20. As regards the argument that government agencies are recognising him as President of the Parishad which Party No. 2 wants to substantiate by a copy of letter written by Keral Institute of Local Administration to participate in the function scheduled to be held on 11/8/2016, addressed to Sh. Valmiki Parshad Singh as President of the Parishad, copy of a similar letter has also been produced by the other party which has been addressed to Sh. Subodh Kant Sahai as Chairman of the Parishad. In fact, none of these two letters can be relied upon because the government departments send such invitation letters to office bearers on the basis of records available with them which is very often, not updated.

21. Now, as regards the Party No. 1, they have given evidence in the shape of affidavits of 10 employees of the Parishad all of which affirm the possession of the Subodh Kant Sahai Group. Party No. 1 has also given details of cheque payments made to the contractor engaged for re-construction of the office complex. These cheques bear dates ranging from 31/12/2016 to 14/3/2017. Affidavit of the contractor has also been produced wherein he has affirmed that he has done the work in the complex under the supervision of Dr. Ashok Chauhan and Sh. Anil Sharma. These evidences produced by Party No. 1 appear to be convincing and strong enough to show that the Party No. 1 was in actual possession of the Parishad Complex and the Party No. 2 tried to take possession forcibly by entering into altercation and scuffle.

22. It may be mentioned here that these findings are only interim measure and have no impact on the legality of the elections claimed to have been held on the two dates, i.e., 19/12/2013 and 21/12/2013 by the two parties. Party No. 1 has already filed a suit in the court of Hon'ble Civil Judge, Kakardooma Courts, Delhi with a prayer that the elections held on 21/12/2013 be declared legal and valid and they be declared as valid and legally elected governing body of the Parishad.”



(Emphasis Supplied)

2.2 He states that the learned SDM had opined that the restoration of possession of the property belonging to All India Panchayat Parishad (AIPP) in favour of Respondent No. 2 is an interim measure and the learned SDM was influenced by the fact that Respondent No. 2 had challenged the election dated 19.12.2013 (whereby the Petitioner was elected as the President of the AIPP) before a Civil Court. He states that the learned SDM had elected to await the outcome of the said civil proceedings wherein the election was challenged.

2.3 He states subsequently that the Petitioner herein has also succeeded in the civil suit re-numbered as Civil Suit No. 765/2017 against Respondent no. 2 and the Civil Court has dismissed the said suit and opined as under:

“15. Further, the plaintiff has sought to declare the election dated 21.12.2013 as valid without seeking declaration regarding the election which took place on 19.12.2013. The plaintiff has himself filed an order dated 19.12.2013 passed by Sh. Subodh Kant Sahay, the alleged president of ABPP wherein the election dated 19.12.2013 was declared null and void and suspended the membership of the participating candidates and therefore, appropriate remedy would be to seek declaration of the previous election as null and void without which the subsequent election cannot be held as valid.”

17. In view of the observations made above, I am of the view that suit of the plaintiff is clearly barred by law. Accordingly, the application filed by the defendant under Order 7 Rule 11 is allowed. The suit of the plaintiff is rejected.”

(Emphasis supplied)

2.4 He states that this judgment of the Civil Court has attained finality as Respondent No. 2 has elected not to challenge the said judgment.

2.5 He states that having succeeded before the Civil Court; the Petitioner filed an application before the learned SDM for restoration of the possession



in favour of the Petitioner. He states, however, that the said application has not been heard by the learned SDM due to the pendency of the present revision petition.

2.6 He states that the present revision petition was filed on 28.05.2018 prior to the decision in the Civil Suit No. 765/2017 dated 09.05.2019. He states that he would be satisfied if a direction is issued to the learned SDM to decide the Petitioner's application for restoration of possession in favour of the Petitioner keeping in view the judgment of the Civil Court dated 09.05.2019.

2.7 He states in addition; he also places reliance upon order of the Civil Court dated 17.09.2019 passed in a Civil Suit No. 94579/2016 holding that Mr. Kishor Taviad is not authorized to represent AIPP. He states that the said judgment is also relevant as Respondent No. 2 has relied upon the authority of Mr. Kishor Taviad, who appointed the Respondent No.2 as the member of the AIPP.

3. In response, learned counsel for the Respondent No. 2 states that it is a matter of record that the judgment of the civil suit has not been challenged by Respondent No. 2. He states that it is the contention of the Respondent No. 2 that since then fresh elections of AIPP have been held and, therefore, the allegedly elected body headed by the Petitioner as the president does not exist.

4. This Court has considered the submissions of the parties and finds merit in the submission of the Petitioner.

5. The subject land admittedly belongs to AIPP and is not the personal property of either the Petitioner or Respondent No. 2. The subject land can only be possessed by AIPP through its office bearers. No individual has a



right to possess the land in his/her personal capacity.

6. Since on 18.05.2018, while passing the impugned order, the learned SDM was influenced by the fact that the election of Petitioner is in dispute, the subsequent judgment of the Civil Court dated 05.09.2019 declining to give a declaration in favour of Respondent no. 2 that election held on 21.12.2023 was valid is a material development.

7. Considering the limited relief sought by the Petitioner as recorded at paragraph 2.6, the present petition is disposed of directing the learned SDM to decide the pending application of the Petitioner qua restoration/handing over of the possession of the subject land in accordance with law. The learned SDM while deciding the application shall duly bear in mind the judgment of the Civil Court dated 05.09.2019 passed in Civil Suit No. 765/2017 vis-à-vis the election of Respondent no. 2.

8. Keeping in view, the application/issue has been pending for a long time, learned SDM is requested to hear and decide the matter expeditiously as per its own calendar.

9. With the aforesaid directions, the petition is disposed of along with pending applications (if any).

10. The digitally signed copy of this order, duly uploaded on the official website of the Delhi High Court, www.delhihighcourt.nic.in, shall be treated as a certified copy of the order for the purpose of ensuring compliance. No physical copy of order shall be insisted by any authority/entity or litigant.

MANMEET PRITAM SINGH ARORA, J

FEBRUARY 19, 2025/MR/sk

[Click here to check corrigendum, if any](#)