



2026:DHC:2664



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **W.P.(C) 4829/2023**

Date of Decision: **23.03.2026****IN THE MATTER OF:**

SHRIMATI TEJ KAUR

.....Petitioner

Through: Mr. Devraj Singh, Advocate.

versus

GOVERNMENT OF THE NATIONAL CAPITAL TERRITORY
OF DELHI & ORS.Respondents

Through: Mr. Abhinav Singh, Advocate for
GNCTD.
Mr. Asheesh Kumar Meena, Adv. for
IFCD.

CORAM:

HON'BLE MR. JUSTICE PURUSHAINDRA KUMAR KAURAV
JUDGEMENT

PURUSHAINDRA KUMAR KAURAV, J. (ORAL)

1. The petition is for directions to respondent no. 2- Flood Control Department not to take forcible possession of the petitioner's property. A further prayer for directions to respondent no. 2 to permit the petitioner to raise a building on the land in question is also made.
2. As per the case set up by the petitioner, she purchased the land in question *vide* Sale Deed dated 07.07.1971. However, the petitioner was served restraintment order dated 14.02.2023 by respondent no. 4- Sub Divisional Magistrate, whereby, it was alleged that a complaint was received

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regarding unauthorised construction in the land in question. The petitioner was further restrained from undertaking any further unauthorised construction and directed to appear before the authority, failing which, demolition orders would be passed. The petitioner claims to have replied to the said order on 17.02.2023. However, on 03.03.2023, officials of respondent no. 2 are stated to have arrived at the property in question without serving any notice on the petitioner and demolished a part of the building therein.

3. The petitioner contends that the land in question falls within Khasra no. 31/2017 and is owned by the petitioner, therefore, the same has wrongly been demolished and the petitioner is entitled to the necessary reliefs as prayed in the petition.

4. The respondents, however, in their counter affidavit, take the position that the land in question falls within Khasra no.31/17/1, which is part of larger Khasra no.31/17. According to the respondents, the land in question has been acquired in accordance with the provisions of the Land Acquisition Act, 2013 and the petitioner does not have any right therein.

5. On perusal of the aforesaid facts and circumstances, the Court finds the present *lis* requires determination of the Khasra No. applicable to the land in question, and whether the petitioner is its owner. These questions will have to be gone into by the Court of competent jurisdiction after allowing the parties to adduce oral and documentary evidence in that respect. The aforesaid exercise may not be appropriately conducted by the Writ Court in exercise of Article 226 of the Constitution of India.

6. The Supreme Court in the case of *State of Orissa v. Dr. (Miss)*



Binapani Dei and Ors.,¹ has held as under:

“6. It was the case of the first respondent in her petition before the High Court that the State had arbitrarily fixed her date of birth as April 16, 1907, and on that basis had declared her superannuated before she attained the age of 58 years. On behalf of the State it was denied that the true date of birth of the first respondent was April 10, 1910, and that the authorities of the State had arbitrarily and maliciously chosen to refix her date of birth. Under Article 226 of the Constitution the High Court is not precluded from entering upon a decision on questions of fact raised by the petition. Where an enquiry into complicated questions of fact arises in a petition under Article 226 of the Constitution before the right of an aggrieved party to obtain relief claimed may be determined, the High Court may in appropriate cases decline to enter upon that enquiry and may refer the party claiming relief to a suit. But the question is one of discretion and not of jurisdiction of the Court. In the present case the question in dispute was about the regularity of the enquiry and the High Court was apparently of the view that the question whether the State acted arbitrarily did not raise any question of investigation into complicated issues of fact. No interference with the exercise of the discretion of the High Court is therefore called for.”

7. In view thereof, having considered all the facts and circumstances, the petition stands disposed of. Liberty, however, is reserved in favour of the petitioner to take an appropriate remedy in accordance with law.

PURUSHAINdra KUMAR KAURAV, J

MARCH 23, 2026/P

¹ 1967 SCC OnLine SC 15