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

+ **W.P.(C) 3992/2024 & CM APPL. 28812/2024, CM
APPL.28813/2024**

BRAHAM SINGH

..... Petitioner

Through: Mr. D. Hasija, Ms. Prachi Hasija, Ms.
Priyanshi Bhardwaj and Mr. S.S.
Kumar, Advocates

versus

GOVT. OF NCT OF DELHI & ORS

..... Respondent

Through: Mr. Udit Malik, ASC with Mr. Vishal
Chanda, Advocate

CORAM:

HON'BLE MR. JUSTICE TUSHAR RAO GEDELA

ORDER

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14.05.2024

(The proceeding has been conducted through Hybrid Mode)

CM APPL. 28812/2024

1. This is an application filed on behalf of the applicant/petitioner seeking permission to raise a temporary boundary wall.
2. Mr. D. Hasija, learned counsel appearing for the applicant/petitioner submits by inviting attention of this Court to the photographs filed alongwith the present application to show that the barbed wires, which was permitted to be raised by the petitioner by virtue of this Court's order, has proved to be futile inasmuch as the wild animals have been able to breach the same and broken it down.
3. He submits that the danger to the life and property of the petitioner is writ large. He prays that this Court may grant him liberty to raise a

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temporary wall, if not a properly constructed boundary, just to save the property and life of the petitioner. On instructions, he also undertakes that the petitioner would remove, within 24 hours, any portion of the wall which is found within the land belonging to the Forest Department or GNCT of Delhi of his own volition, after the demarcation report is furnished.

4. Learned counsel appearing for the respondent submits that even the original order seeking demarcation of the Khasra Nos. 816, 840 and 852 alongwith Khasra Nos. 817, 839 and 852 of Village Aya Nagar was obtained by the petitioner by material concealment of facts, in that, the petitioner had not divulged the fact that there was a restraint order passed on 10.04.2019 whereby the Revenue Assistant had directed ejectment of the petitioner under the provisions of Section 81 of DLR Act, 1954.

5. Learned counsel for the Forest Department relies upon the judgment of the Supreme Court in ***S.P. Chengalvaraya Naidu (Dead) by LRs vs. Jagannath (Dead) by LRs and Ors*** reported in (1994) 1 SCC 1 wherein it was held that fraud would vitiate all ecclesiastical and other solemn acts. In that view of the matter, learned counsel for the respondent submits that no such orders for permitting the petitioner to construct a temporary or *pucca* boundary wall can at all be passed.

6. This Court has heard learned counsel for the parties.

7. This is beyond cavil that by way of letter dated 22.04.2024 which has been annexed to the reply filed by the respondent, the Government of NCT, Department of Forest and Wildlife has communicated to the respondent no.3/Sub Divisional Magistrate, Mehrauli, to fix schedule for joint demarcation of Khasra Nos. 817, 839 and 852 of Village Aya Nagar. It would be relevant to reproduce the contents of the said letter hereunder:-



“GOVERNMENT OF NCT OF DELHI
DEPARTMENT OF FORESTS & WILDLIFE
OFFICE OF DEPUTY CONSERVATOR OF FORESTS (SOUTH)
NEAR DR. KARNI SINGH SHOOTING RANGE
TUGHLAKABAD, NEW DELHI- 110044.

F. No. 65/DCF(S)/Land/Ayanagar/2022-23/440-46

Dated 22/04/24

To,
The Sub-divisional Magistrate (Mehrauli)
Office of the Sub-divisional Magistrate (Mehrauli)
Old Tehsil Building, Internal Path,
Seth Sarai, Mehrauli,
New Delhi, Delhi 110030.

Sub: Regarding fixing of a schedule for joint demarcation of khasra no. 817, 839 & 852 in village Ayanagar.

As per order dated 04.04.2024 in case no. W.P. (C) 3992/2024 titled as Brahm Singh vs Govt. of NCT of Delhi there are clear direction to conduct a joint demarcation exercise on khasra nos. 817, 839 & 852 in village Ayanagar.

Adjacent to khasra no.817, 839 & 852 there is forest land bearing khasra nos. 816, 840 & 851.

As per records available in this office khasra no.816, 840 & 851 in village Ayanagar is forest land as per notification F.10(42)-I/PA/DCF/93/2012-17(I) dated 24.05.1994 and No.F.1 (29)PA/DCF/95 dated 02.04.1996.

Hence, you are requested to fix a schedule within 3 days for joint demarcation in presence of Revenue, Forest and petitioner comprising of khasra nos.816, 840 & 852 and private land comprising of khasra nos.817, 839 & 852 in village Ayanagar so that the exact extent of forest land can be identified and land can be protected by erecting boundary wall.



Also, local SHO is responsible for providing Police Assistance to carry out joint demarcation exercise on the date of demarcation as per schedule fix by Revenue Department.

The following officials of Forest Department may be contacted for liasioning for joint demarcation:-

- 1. Sh. Bakshinder Pal Singh, Range Officer, Mb.No. 7087501591*
- 2. Sh. Geetanand, DRO, Mb No. - 9899609461.*

Sd/-

***Dy. Conservator of Forests
South Forest Division***

It is apparent from the para 4 of the said letter that the Deputy Conservator of Forests had requested the Sub-Divisional Magistrate to fix a schedule within three days from 22.04.2024 for joint demarcation in presence of Revenue, Forest and the petitioner, i.e., the present petitioner herein, comprising of Khasra Nos.816, 840 and 852 and private land comprising of Khasra Nos. 817, 839 and 852 in Village Aya Nagar so that the exact extent of forest land can be identified and the same can be protected by erecting boundary wall.

8. It appears that the said letter has not yet been acted upon since there are no instructions coming forth from the learned counsel for the respondent.

9. Be that as it may.

10. Since the entire controversy appears to be revolving around the identification and demarcation of the land of the petitioner on one hand and that of the Forest Department on the other, it would be in the interest of justice as also to resolve the dispute at the earliest, to direct both, the Department of Forest and Wildlife as also Sub-Divisional Magistrate, Mehrauli to carry out the demarcation proceedings in respect of Khasra Nos.



816, 840 and 852 and that of Khasra Nos. 817, 839 and 852 of Village Aya Nagar.

11. The same be concluded within three weeks from the date of receipt of this order. The petitioner shall also be permitted to participate in the said demarcation. He shall also be intimated about the date for such joint demarcation, whenever it is conducted. The aforesaid directions are to be complied with strictly.

12. It is made clear that this Court shall not brook any delay insofar as the demarcation proceedings are concerned.

13. In the meantime, the petitioner is permitted to raise the temporary/*kaccha* boundary wall just to protect the property as also the petitioner's life. However, the undertaking given by Mr. Hasija shall bind the petitioner. In case any such portion of the boundary wall is found to be within the land of the Forest Department, the same shall be removed voluntarily by the petitioner within 24 hours of the said demarcation report.

14. The demarcation report shall be furnished to the petitioner immediately upon such preparation as also be filed under an affidavit before this Court within two weeks, thereafter.

15. It is anticipated that the petitioner shall abide by the undertaking given above.

16. The application is disposed of with the aforesaid directions.

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17. List before the Registrar on the date already fixed, i.e., 23.08.2024.

TUSHAR RAO GEDELA, J

MAY 14, 2024/१५

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