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

+ W.P.(C) 5561/2023 & CM APPL. 21849/2023

DEEPINDER SINGH

..... Petitioner

Through: Mr. Rajan Chaudhary with
Ms. Ravleen Kaur, Advocates.

versus

GOVT. OF NCT OF DELHI AND ORS. Respondents

Through: None.

CORAM:

HON'BLE MS. JUSTICE MINI PUSHKARNA

ORDER

% **01.05.2023**

[Physical Hearing/ Hybrid Hearing]

CM APPL. 21849/2023 (Application under Section 151 CPC for exemption from filing Hindi typed copy and the clear copy/dim copies of annexure)

1. Recording the undertaking on behalf of the petitioner that the defects shall be cured within 6 weeks, exemption is allowed.
2. Application is disposed of.

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3. The present writ petition has been filed challenging the order dated 01.02.2023 issued by the Office of the Block Development Officer (South), M.B. Road, Saket, New Delhi-110068, Government of NCT of Delhi.
4. By way of the said notice, it has been noted that khasra no. 895 at Village Chhattarpur, New Delhi is Gram Sabha land (rasta) as per the revenue record and after proper demarcation of the aforesaid land, it was found by the field staff that khasra no. 895, Village Chhattarpur, New Delhi, on Gaon Sabha land has been encroached.



Thus, it has been directed that all encroachers/unauthorised occupants at khasra no. 895, Village Chhattarpur, New Delhi are directed to remove the said encroachment from the land in question.

5. It is the case of the petitioner that the petitioner is the owner of the adjacent Khasra No. 1127/2/1, 1128/2/2, 1129/2, 1130/2 1131/2 1131/1 of village Chhattarpur, New Delhi which was mortgaged with the Corporation Bank. It is submitted that the land of the petitioner has been illegally sold by the Corporation Bank to respondent no. 3, and that the petitioner has challenged the auction sale in favour of the respondent no. 3 which is pending in appropriate forum.

6. It is further submitted that the petitioner is the owner and in possession of Khasra No. 519/2, 521/1 of Village Chhattarpur at Mandi Road, New Delhi-110070 and enjoying peaceful possession of the property, known as Riyasat Farm, Mandi road, New Delhi.

7. Respondent no. 1 claims that one rasta bearing khasra no. 895, which is 16.5 feet width, goes across from west to east and khasra No. 519/2 and 521/1 situated on the North of the road and khasra no. 1132/1 and 1132/2 on the south side of the road. Respondents claim that petitioner has constructed the entry gate of his farm house at the entrance of Riyasat Farm, which is encroaching the said road/rasta belonging to Gaon Sabha. It is submitted that the petitioner has been in possession of the said portion of land since the year 1972 and no one from the general public or any officials have ever claimed the said road/rasta as public way since then.

8. It is submitted that respondent no. 3 had prayed for demarcation of the alleged rasta and allowing the respondent no. 3 to construct a



pavement of cement structure on the demarcated land.

9. It is submitted that the respondent no. 1 i.e. the SDM/South District, Saket initiated the proceedings under Section 133 of the Code of Criminal Procedure, 1973 (Cr.P.C) on the basis of complaint of respondent no. 3.

10. It is submitted that SDM Saket while proceeding under Section 133 Cr.P.C has not proceeded as per law as the respondent no. 1 has not passed any conditional order against the petitioner, before issuing the show cause notice to the petitioner.

11. It is further submitted that respondent no. 1 under the instructions of respondent no. 3 has carried out some demarcation with the help of the Total Station Method (TSM) Machine. However, it is submitted that the demarcation proceedings were carried out without calling the affected persons, i.e. owners of the land adjacent to the land of the petitioner. Thus, it is submitted that the notice as issued by the DDA dated 01.02.2023 is illegal.

12. Issue notice to the respondents.

13. Reply be filed within four weeks. Rejoinder thereto, if any, be filed within two weeks thereafter.

14. List on 11.09.2023.

MINI PUSHKARNA, J

MAY 1, 2023

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