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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **W.P.(C) 9478/2019**

SH. RAM PRAKASH MITTAL AND ANR. Petitioners
Through Mr.V.P.Rana, Adv.

versus

GOVT. OF NCT OF DELHI AND ORS. Respondents
Through Mr.Yeeshu Jain, Standing counsel
with Ms.Jyoti Tyagi, Adv. for R-1 & R-2
Ms.Mini Pushkarna, Standing Counsel for North
DMC with Ms.Swagata Bhuyan and Ms.Shiva
Pandey, Adv. for R-4
Mr.Parvinder Chauhan. Standing counsel with
Mr.Nitin, Jain, Adv. for R-5/DUSIB

CORAM:

HON'BLE MR. JUSTICE JAYANT NATH

ORDER

30.08.2019

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W.P.(C) 9478/2019

Issue notice. Learned counsel accept notice on behalf of respondents No.1,2, 4 and respondent No.5 respectively. Counter-Affidavit be filed within four weeks. Rejoinder thereto, if any, be filed within four weeks thereafter.

Issue notice to respondent No.3, returnable for the next date.

CM APPL.39032/2019

By this application the petitioner seeks to restrain respondents No.4 and 5 from raising any kind of construction, erection of boundary wall or fencing etc. in or around the property in question.

Learned counsel appearing for respondent No.5 has pointed out that the issue regarding section 24(2) of the *Right to Fair Compensation and Transparency in the Land Acquisition (Rehabilitation and Resettlement) Act, 2013* has been referred to a Constitution Bench. He further states that the



possession of land in question is with respondent No.5 which is only creating a boundary wall to protect the property from encroachment. He further states that no further construction is sought to be carried out in the land in question. He also states that no specific equities will be claimed by the petitioner by raising the wall.

Learned counsel for the petitioner, however, refutes the plea of respondent No.5 and states that the land is open and possession is with the petitioner.

I have been taken through the order of the Division Bench being W.P.(C)7839/2009 titled Ram Prakash Mittal & Anr. vs. UOI & Ors. dated 30.09.2016. In the proceedings initiated by the petitioner in the said judgment it has been noted by the Division Bench that the respondents No.2 to 4 have claimed possession of the land in question and this aspect has been disputed by the petitioners who claimed to be in actual possession of the land. The Division Bench further noted that they are passing the said judgment without going into the controversy with regard to physical possession of the land in question. Clearly the issue of possession is a disputed question of fact.

It is made clear that any construction/boundary wall raised by respondent No.5, if any, will be subject to further directions that this court may pass.

List on 09.12.2019.

JAYANT NATH, J

AUGUST 30, 2019

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