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

+ W.P.(CRL) 2017/2025, CRL.M.A. 18839/2025 & CRL.M.A. 18840/2025

SMT PREETI GOENKA

.....Petitioner

Through: Mr. Rajiv Nayyar, Sr. Adv. with Mr. R.Rao, Sr. Adv. Mr. Aakash Bajaj, Mr. Avirat Kumar, Ms.Perna Banerjee, Advs.

versus

GOVERNMENT OF NCT OF DELHI & ANR Respondent

Through: Mr. Yasir Rauf Ansari, ASC with Mr. Alok Sharma, Adv. for R-1
SI Neeraj Saini, PS Neb Sarai

CORAM:

HON'BLE MR. JUSTICE RAVINDER DUDEJA

ORDER

% **04.07.2025**

W.P.(CRL) 2017/2025

1. Petitioner assails the order dated 16.06.2025, passed by the learned SDM, Saket under Section 145 of the Code of Criminal Procedure, 1973 [“Cr. PC”]/Section 164 of Bharatiya Nagarik Suraksha Sanhita, 2023 [“BNSS”].
2. Issue notice.
3. Notice accepted by Mr. Yasir Rauf Ansari, learned ASC, appearing for respondent No. 1.
4. Notice be also issued to respondent No. 2 through all the prescribed modes, subject to petitioner taking requisite steps, returnable for 17.09.2025.



CRL.M.A. 18838/2025

5. This is an application for stay of operation and effect of order dated 16.06.2025, passed by learned SDM, Saket.
6. Vide impugned order, learned SDM has disposed of the application under Section 145 Cr. PC/under Section 164 BNSS, filed by respondent No. 2, *inter alia*, declaring that respondent No. 2 is entitled to retain the possession of the land in dispute therein.
7. Mr. Rajiv Nayyar, learned Senior Advocate, appearing for the petitioner, submits that the impugned order is *ex facie de hors* Section 145 Cr. PC/164 BNSS and completely without jurisdiction. It is submitted that the dispute is primarily with regard to the issue of ownership/title and that impugned order goes beyond the jurisdictional limit of Section 145 Cr. PC/164 BNSS. He further submits that learned SDM has not carried out any adjudication regards the possession of the land in dispute. According to him, petitioner is in possession of the land in dispute.
8. It is further submitted that the impugned order has purportedly been passed on an application dated 08.11.2023 filed by respondent No. 2 under Section 145 Cr. PC in respect of land bearing Khata No. 148/54M in Khasra No. 560 min (1-10), 557 min (1-10), 555/1 min (0-8), Khatauni No. 155, Khasra No. 579/1(2-1), 575 min (3-12) at Sainik Farms, Neb Sarai, Delhi, measuring 4300 sq. yards. It is submitted that the land arising out of Khasra No. 555/1 min north (1-13), 557 min north (3-16) and 560 min north (3-16) belong to the petitioner since 2005 and has been wrongly sought to be disputed by respondent No. 2.
9. It is argued that the impugned order premised a bald and unsubstantiated observations. It is also stated that in the application dated



08.11.2023, respondent No. 2 has himself admitted that petitioner is in possession of the land and has failed to provide any basis to allege that there was likelihood of breach of peace.

10. It is submitted that the impugned order is beyond the scope and purview of Section 145 (4) Cr. PC/Section 164(4) of BNSS and that the jurisdiction of the learned SDM is only confined to determining the question of actual possession of the disputed property and that the impugned order fails to record any finding as to how the learned SDM arrived at the conclusion that respondent No. 2 was in possession of the disputed land on 13.12.2024. Thus, the impugned order suffers from fundamental jurisdictional effect.

11. Issue notice.

12. Notice accepted by Mr. Yasir Rauf Ansari, learned ASC, appearing for respondent No. 1.

13. Notice of the application be also issued to respondent No. 2 through all the prescribed modes, subject to petitioner taking requisite steps, returnable for 17.09.2025.

14. In the meanwhile, operation of the impugned order dated 16.06.2025 be kept in abeyance till the next date.

15. Copy of this order be given *dasti* under the signatures of the Court Master.

RAVINDER DUDEJA, J.

JULY 4, 2025

RM