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

+ **CONT.CAS(C) 1166/2023 & CM APPL. 25455/2024**

SHARDA YADAV

..... Petitioner

Through: Mr. Lal Singh Thakur, Mr. Sudhir
Tewatia, Mr. Sahil Gandhi, Mr.
Prashant, Mr. Rachit, Mr. Madhur and
Ms. Manisha, Advocates
Mob: 9212046428

versus

STATE OF NCT OF DELHI & ANR.

..... Respondents

Through: Ms. Shobhana Takiar, SC for DDA
with Mr. Kuljeet Singh, Advocate
Mob: 9810962950
Email: shobhana_takiar@yahoo.co.in
Ms. Mehak Nakra, ASC, GNCTD
with Ms. Aditi Kapoor and Mr.
Devansh, Advocates for GNCTD.
Mob: 9871144582
Email: advmehaknakra@gmail.com

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Date of Decision: 10th May, 2024

CORAM:

HON'BLE MS. JUSTICE MINI PUSHKARNA

J U D G M E N T

MINI PUSHKARNA, J: (ORAL)

1. The present petition has been filed alleging willful disobedience of the order dated 14th March, 2024 passed in *W.P.(C) 3036/2023*, wherein, the Court had directed the respondents to take a decision upon the representation of the petitioner and an inspection be conducted by the concerned Sub Divisional Magistrate (“SDM”) and thereafter, action be taken accordingly.
2. Since the requisite action has not been taken by the respondents, the



present petition has come to be filed.

3. Learned counsel appearing for the petitioner submits that the petitioner is the owner of agricultural land, which is adjoining to Khasra No. 56/1, Village Samlkha, New Delhi, wherein the petitioner carries out farming. He further submits that upon Khasra No. 56/1, Village Samlkha, a Nalla/ Rain Water Body exists, which has since been encroached and a JJ cluster is existing therein.

4. It is submitted that various complaints have been made by the petitioner before the SDM, Block Development Officer (“BDO”) and Deputy Commissioner, for removal of the illegal encroachment. However, no action has been taken by the authorities, despite repeated reminders.

5. Attention of this Court has been drawn to *Annexures P-1 to P-8*, which are the various complaints and representations made by the petitioner in this regard.

6. The writ petition being *W.P.(C) 3036/2023*, filed by the petitioner with regard to his grievance qua the encroachment on the Nalla/ Rain Water Body, was disposed of vide order dated 14th March, 2023, in the following terms:

“xxx xxx xxx

2. *The Petitioner in the present case is aggrieved by the encroachment of the nalla/I 'Rain water body land' in Khasra No.56/1, Village Samalka, New Delhi qua which numerous complaints are stated to have been made by her since 2014 with the SDM Office. However, no action has been taken till date.*

3. *Multiple representations made by the Petitioner have been placed on record. Photographs have also been placed on record alleging the encroachment and formation of jhuggis.*

4. *Accordingly, let the representation of the Petitioner along with the averments in this petition be treated as a representation and a decision be taken by the concerned authority within a period of 3*



months.

5. If an inspection is required, the same shall be conducted within one month and the Petitioner is permitted to assist the concerned SDM in the said inspection.

xxx xxx xxx”

7. Today, Ms. Mehak Nakra, learned counsel appearing for the Government of NCT of Delhi submits that pursuant to the directions of this Court, the demarcation of the land in question has been carried out. She further submits that the land in question, which is subject matter of the present petition, is public land, which has been handed over to the Delhi Development Authority (“DDA”) for development. She, however, submits that it is yet to be confirmed whether the encroachment, which is existing on the land in question, is on a Nalla/ Rain Water Body.

8. It is further submitted that since the land in question has already been handed over to the DDA, thus, the requisite action for removal of encroachment, has to be carried out by the DDA.

9. However, learned counsel appearing for the DDA submits that she has no instruction in this regard and it is still to be ascertained, as to whether the land in question, falls within the jurisdiction of DDA.

10. Accordingly, this Court is of the view that the petitioner/ her authorized representatives ought to be granted a hearing by the respondents in this regard, so, that requisite action can be taken and assessment can be made with regard to existence of a water body on the land in question.

11. At this stage, learned counsel appearing for the respondents submits that owing to the Lok Sabha elections, all the officials are busy in election duty. Therefore, it is submitted that hearing can be granted to the petitioner/her authorized representatives, only in the second week of June,



2024.

12. Accordingly, it is directed that two authorized representatives of the petitioner shall visit the office of Director, Land Management, DDA, along with the requisite documents. The Director, Land Management, shall hear the grievance of the authorized representatives of the petitioner and take into account, the documents as may be submitted on behalf of the petitioner.

13. It is also directed that the SDM, Vasant Kunj or his authorized representative, shall attend the hearing on 13th June, 2024 at 11:00 AM and any date thereafter, before the Director, Land Management and produce all the requisite records before the said official, for the purposes of ascertaining the existence of a Water Body as well as the fact of handing over the land in question to DDA.

14. Needless to state, the concerned authority, under whose jurisdiction the land in question falls, shall take appropriate action expeditiously, preferably within a period of four months from today.

15. It is further directed that after receipt of the said documents and personal hearing granted to the authorized representatives of the petitioner, the DDA shall take a decision as regards the existence of a Water Body over the land in question.

16. In case existence of a water body is found on the encroached land, the DDA/the concerned authority, shall take expeditious steps for restoration of the Water Body. Even if no Water Body is found existing on the land in question, even then, the DDA/the concerned authority, shall proceed to remove the encroachment from the public land, in accordance with law.

17. The DDA/the concerned authority is directed to take action in this regard at the earliest, preferably within a period of four months from today.



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18. With the aforesaid directions, the present petition is disposed of.
19. The next date of hearing of 5th July, 2024 stands cancelled.

MINI PUSHKARNA, J

MAY 10, 2024/ak