
(2013) 07 DEL CK 0553

In the Delhi High Court

Case No : Writ Petition (C) 4641 of 2013

Ankur Muterja

APPELLANT

Vs

Public Grievance Commission and Others

RESPONDENT

Date of Decision : 24-07-2013

Acts Referred:

Citation : (2013) 07 DEL CK 0553

Hon'ble Judges : V.K. Jain, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

V.K. Jain, J.—The petitioner before this Court claims to be in possession of a portion of House No. 156, Gagan Vihar, Delhi. One S.N. Singhal filed a grievance petition before Public Grievance Commission, alleging unauthorized encroachment on public land by construction of House No. 156 of Gagan Vihar Extension towards south side, thereby blocking the pedestrian passage on the disused canal road. Gagan Vihar Extension is an unauthorized colony. Vide its letter dated 12.11.2012, the Commission requested the Chief Engineer, PWD to ascertain the nature of the problem of the petitioner and take corrective measures under law, for resolving the same. The petitioner before this Court wrote a letter dated 06.01.2013 to the Executive Engineer, PWD, referring to the complaint made by some persons from Gagan Vihar Society, alleging encroachment on PWD land and stating that the work of Master Plan Road had been completed way back on 23.04.2008 and a footpath was constructed alongside the Master Plan Road stretch from Gate No. 3, Gagan Vihar to House No. 1, Gagan Vihar, but no service road was constructed. He further alleged that thereafter a boundary wall was constructed on the final Kerb stone of the footpath of the Master Plan Road stretch from Gate No. 1, Gagan Vihar to House No. 1, Gagan Vihar, but no boundary wall was constructed in front of houses No. 152 to 156, which were abutting directly onto the footpath of the Master Plan road. He claimed that no portion of houses No. 141 to 156 of Gagan Vihar

Extension was encroaching upon any portion of the already completed Master Plan Road. He accordingly requested that no action may be taken on the complaints made by such persons. Vide order dated 06.02.2013, the Commission noted that there was no record of land ownership of area in question available with PWD or MCD. The Engineer-in-Chief of PWD was directed to take the matter with the Development Commissioner and seek their help in demarcation of land in question. During the subsequent hearing before the Commission on 07.03.2013, the Executive Engineer of PWD informed that it would be able to take further action in the matter once demarcation has been done. During the hearing before the Commission on 14.05.2013, Action Taken Report was submitted by PWD informing that a request had been made to the Deputy Commissioner to mark the right of way to disused canal road. He also informed that the petitioner before this Court Ankur Mutterja had claimed that he had not encroached on PWD land. The complainant before the Commission, however, insisted that there was indeed an encroachment on PWD land or road by owners of House No. 152 to 156 of Gagan Vihar Extension. In these circumstances, the Commission directed the Deputy Commissioner to expedite action on the request of PWD for demarcation of the right of way. Vide order dated 19.06.2013, the Commission advised SDM, Preet Vihar to initiate action for demarcation as had been requested by PWD, particularly on the stretch in front of House Nos. 152 to 156 of Gagan Vihar Extension. Being aggrieved from the aforesaid direction by the Commission, the petitioner is before this Court,

2. During the course of hearing, I asked the petitioner as to how he had come into possession of the land on which House No. 156, Gagan Vihar Extension has been constructed. The reply given by the petitioner was that he inherited the said house from his father. When he was asked as to how his father had acquired the aforesaid land, the petitioner stated that the land in question came to his father by way of a series of transactions evidenced through execution of documents such as Power of Attorney and Agreement to Sell. Since the petitioner has not filed nay document at all to indicate that he or his father owned the land underneath House No. 156, Gagan Vihar Extension, nor had he filed any documents, evidencing transaction by way of execution of Agreement to Sell/ Power of Attorney in respect of the aforesaid land, he was asked whether he can file any such documents so that the Court may find out whether he has any title to the aforesaid land or not. The petitioner stated that he cannot file any such document. More importantly, I fail to appreciate any valid objection the petitioner can have, to demarcation being carried out to identify as to whether there is any encroachment on the disused canal road or not. No order for demolition of any part of the house occupied by the petitioner has been passed by the Commission. The petitioner has not placed on record any document to show the extent of land which he claims was acquired by his father by way of documents such as Power of Attorney/Agreement to Sell. The petition does not even disclose the area of the land occupied by him on which the aforesaid house has been constructed. In these circumstances, it becomes important to ascertain as to whether

construction of the house occupied by the petitioner has resulted in encroachment on the canal road or not and this verification cannot be done unless demarcation of the said road is carried out. If any action is sought to be taken for demolition of the house occupied by the petitioner or any part of the said house, it would be open to the petitioner to avail such remedy as is available to him in law in this regard, but he cannot have valid objection to demarcation being carried out for the purpose of verifying whether there is any encroachment on the disused canal road or not.

I find no merit in the writ petition and the same is hereby dismissed.