
(2011) 08 DEL CK 0294

In the Delhi High Court

Case No : Writ Petition (C) 4868 of 2008 and CM No. 3621 of 2011

Jagan Nath Sharma

APPELLANT

Vs

D.D.A. and Others

RESPONDENT

Date of Decision : 02-08-2011

Acts Referred:

Citation : (2011) 08 DEL CK 0294

Hon'ble Judges : Rajiv Sahai Endlaw, J

Bench : Single Bench

Advocate : Rajat Aneja, for the Appellant; Pawan Mathur, for DDA and R.K. Sharma, for R-3, for the Respondent

Final Decision : Disposed Off

Judgement

Rajiv Sahai Endlaw, J.—The petition has been filed seeking mandamus to the Respondent No. 1 DDA to demolish the unauthorized construction raised by the father of the Respondent No. 3 Shri Brij Narain on the land comprised in Khasra No. 33/10 situated behind the house of the Petitioner, in village Basant, New Delhi and to remove the encroachment so made on the government land.

2. Notice of the petition was issued and the pleadings have been completed. The counsel for the Petitioner, the counsel for the Respondent DDA and the counsel for the Respondent No. 3 have been heard.

3. It transpires that the father of the Respondent No. 3 namely Shri Rizak Ram has filed a suit against the Respondent DDA with respect to the same land though not admitted to be bearing Khasra No. 33/10 and in which suit there is an interim order dated 17th March, 2001 restraining DDA from demolishing the construction on the said land.

4. In view of the aforesaid, no direction as sought in this petition and which would be contradictory to the interim order in the suit can be given.

5. Though the counsel for the Petitioner has contended that the Respondent No.

3/his father have encroached upon more land than subject matter of the suit aforesaid (and which is controverted by the counsel for the Respondent No. 3) but in the absence of any site plan or other material before this Court to show as to how much is the land subject matter of the suit and the interim order in the suit and how much is the actual land under encroachment, no direction in this regard can also be issued.

6. The counsel for the Petitioner has then sought direction for expeditious disposal of the suit. The counsel for the Respondent No. 3 has fairly stated that he is the counsel also for the Plaintiff in the suit and that he has no objection to a direction for the expeditious disposal. On enquiry, it is stated that the suit is now pending in the Court of Ms. Shefali Sharma, Civil Judge, Tis Hazari, Delhi at the stage of Respondent DDA's evidence.

7. In the circumstances while holding that no mandamus as claimed by the Petitioner can be given in the circumstances aforesaid, the petition is disposed of with a direction to the Court of the Civil Judge where the suit is pending to decide the same on or before 31st December, 2011. No order as to costs.

8. A copy of this order be sent to the Court of Ms. Shefali Sharma. The counsel for the Respondent No. 3 who is also the counsel for the Plaintiff in the said suit, to also place a copy of this order before the Court of the Civil Judge where the suit is stated to be listed next on 27th September, 2011.