
(2011) 07 DEL CK 0005

In the Delhi High Court

Case No : Writ Petition (C) 14206 of 2009

Naresh Gaur and Others

APPELLANT

Vs

GNCT of Delhi and Others

RESPONDENT

Date of Decision : 27-07-2011

Acts Referred:

Citation : (2011) 07 DEL CK 0005

Hon'ble Judges : Rajiv Sahai Endlaw, J

Bench : Single Bench

Advocate : S.K. Rout and B.K. Routray, for the Appellant; Rajeev Sharma, for R-1, Sandeep Khatri and Reeta Kaul for R-2 and Mansi Gupta, for MCD, for the Respondent

Judgement

Rajiv Sahai Endlaw, J.—The four Petitioners by this petition impugn the order dated 17th November, 2009 of the Public Grievances Commission (PGC) and seek mandamus for fresh demarcation of land by the Respondents No. 1&2. It is the case of the Petitioners that they have been in continuous possession of land bearing Khasras No. 89/2, 93, 94, 180, 267, 269/2, 463 in Village Chhawla, Delhi for the last four decades; that in the consolidation proceedings held between the years 1972 and 1975 in the said village they were allotted plots which fall under Khasras No. 89/2, 93, 94, 180, 182, 267, 269/2 & 463 and on which plots the Petitioners have made their houses which exist since the year 1972-75. It is further their claim that the aforesaid plots are adjoining to main metal road 62 ft. wide comprised in Khasra No. 189. They filed this petition when facing threat of demolition of their houses by the Respondents pursuant to the direction in the order dated 17th November, 2009 of the PGC.

2. A perusal of the said order of the PGC shows that a complaint was made by the villagers of the village of Chhawla of encroachment of the main road of the village. It was their case that the said main road has a width of 120 ft. up to phirni and 80 ft. within phirni but the width had been reduced to 35 ft. within the village owing to encroachments on both sides. It was the complaint of the said

villagers that inspite of complaints No. action for removal of encroachments had been taken by the authorities.

3. The PGC in its order has further recorded that notices were issued to the alleged encroachers; that the alleged encroachers made the same claim before the PGC as made by the Petitioners herein. The PGC upon perusal of the records produced before it including report of demarcation done was satisfied that the road comprised in Khasra No. 189 was 82.5 ft. wide and not 62 feet wide as claimed by the villagers. Further satisfaction was recorded that No. residential plots were during the consolidation proceedings allotted out of Khasra No. 189 which comprised of the road. Accordingly directions for removal of encroachment were issued.

4. Unfortunately the order of the PGC does not disclose the name of the encroachers to whom notices were issued and who were heard by the PGC. The four Petitioners claim that they were not. There is No. way for this Court, save for summoning the record of the PGC, to determine whether the Petitioners were represented by the PGC or not though, it is clear from the order that some of the persons alleged to be encroachers were so represented. Since there has been an interim order for the last over two years, it is not deemed expedient to adjourn the matter to call for the record of the PGC.

5. The only claim by the Petitioners is for fresh demarcation to determine whether the land in their occupation is in Khasra No. 189 which is the khasra number of the road; they claim their houses to be on other khasra numbers aforesaid. The demarcation report on which PGC relied and placed before this Court also does not show whether the notice of demarcation was issued to the Petitioners or not and whether the Petitioners were present at the time demarcation was carried out or not. The Petitioners claim they were not.

6. It is therefore deemed expedient to direct fresh demarcation. The counsel for the Respondent No. 2 on enquiry states that the requisite notice of fresh demarcation shall be issued within one week. On enquiry, it is further informed that notice has to be of 30 days. Accordingly it is directed that fresh demarcation be carried out on 21st September, 2011 at 1100 hours and if not concluded on the said date for any reason whatsoever, to go on from day to day. If the houses of the Petitioners are found to be an encroachment on the road, the Respondents to immediately take action for removal and demolition thereof.

7. Till then the interim order as hitherto before prevailing to continue.

8. The petition is disposed of with No. order as to costs.