

(2019) 05 DEL CK 0588

In the Delhi High Court

Case No : Civil Writ Petition No. 5172 Of 2019, Civil Miscellaneous Application
No. 22909 Of 2019

People For Development & Progress

APPELLANT

Vs

Airport Authority Of India & Ors

RESPONDENT

Date of Decision : 30-05-2019

Acts Referred:

Constitution Of India, 1950 — Article 226

Citation : (2019) 05 DEL CK 0588

Hon'ble Judges : G.S.Sistani, J;Jyoti Singh, J

Bench : Division Bench

Advocate : Jyoti Mani Pandey, Anjana Gosain, Abhinav Vasisht, Kirat Randhawa, Priya, Milanka Chaudhary, Dipan Seth, Rajiv Bansal, G.S. Oberoi, Disha Sachdeva, Parul Panthi, Sanjeev Sabharwal, Bushra Waseem

Final Decision : Dismissed

Judgement

G.S.Sistani, J

1. This is a writ petition filed under Article 226 of the Constitution of India and is termed as a Public Interest Litigation. In the first paragraph, an

averment has been made that the petitioners have no personal interest in the litigation. It is not guided by self-gain or for gain of any other

person/Institution and there is no other motive than public interest in filing the writ petition.

2. The petitioner is a registered society registered under the provisions of the Societies Registration Act, 1861. It has been averred that in case the

petition is allowed, it would benefit the residents of village Shahbad Mohammadpur inasmuch as that their right of ingress and egress from the village to the main road, is in question in this petition.

3. As per the writ petition, most of the agricultural land of village Shahbad Mohammadpur stands acquired by the Government in 1970s and 1980s

either for the purpose of development of IGI Airport or for the purpose of planned development of Delhi (Dwarka). Land measuring 485 Bighas and 7

Biswas belonging to the villagers was acquired for development of IGI Airport and 1489 Bighas and 19 Biswas was acquired for planned development

of Delhi, but was subsequently allotted for development of IGI Airport. Another 41 Bighas and 13 Biswas of land was acquired for planned

development of Delhi, but allotted for the development of IGI Airport. Post the acquisition of land in village Shahbad Mohammadpur, the village was

left with only Lal Dora land, besides certain area of land surrounding the village which is now under construction.

4. It is also contended by Ms. Pandey, learned counsel for the petitioner that when the land of the village was acquired, the pathways of the village

were blocked and the villagers were permitted to use the roads for thoroughfare on the land of Airport Authority of India, which is continued to be

used by the villagers till date.

5. The complaint of the petitioners is that DIAL is now carrying out construction for building quarters for CISF personnel. It is contended that in case

the construction is allowed to be carried out, the orders passed by the Supreme Court dated 22.01.2018 would become redundant, as post construction

it may not be possible to provide entry and exit points. Reliance is placed on a copy of the site plan, which has been handed over in Court.

6. Mr. Vasisht, learned senior counsel appearing on behalf of DIAL/respondent Nos. 2 and 3 and Ms. Anjana Gosain, learned counsel appearing for

respondent No. 1, have opposed this petition. It is contended that the petition is misconceived and misleading. It is pointed out that the construction is

being carried out over a plot of land, which is owned by the Airport Authority of India and is leased to DIAL/respondent Nos. 2 & 3 for construction

of flats for CISF personnel.

7. Mr. Vasisht points out that the petitioners have no locus standi to file the present petition and moreover, no restriction can be cast on the rights of

the respondents to carry out construction over land which belongs to them. He further contends that the order passed by the Supreme Court is being

misinterpreted. The road referred to in the order is a road between the village

and the bounded open area. It is contended that the aim, objective and purpose of the order of the Supreme Court was to give access over the road and not through the Airport area which will not only curtail the rights of the respondents but would lead to a complete security hazard. Additionally, it is pointed out that the road has been provided only for passage although the same is under the ownership of the Airport Authority of India and the road was built pursuant to order passed in W.P.(C) 4219/2007 of this Honâ??ble Court.

8. For the sake of convenience, we have scanned two photographs marked â??Aâ? and â??Bâ?. We have also scanned part of the map which has been handed over to us by the learned counsel for the petitioner. All the three have been reproduced as under:-

9. The first picture clearly shows the road, the second picture shows the road and the area where the construction is being carried out and beyond is a restrictive area.

10. Two questions arise for our consideration. Firstly, as to whether the construction activity being carried out in the open area would make the order of the Supreme Court redundant as submitted by counsel for the petitioner and secondly whether any order of restraint can be passed by this Court in

these proceedings with respect to the construction which is being carried out. As far as the first issue is concerned, it is the stand of the respondents

that a boundary wall was built along the village, but it stands demolished by the villagers to enable them to gain access to the road. Outside the

periphery of the village, there is a road in existence which has been shown on the site plan provided by the petitioner which begins from point â??Xâ?

upto point â??Eâ?, from â??Eâ? to point â??Fâ?, from point â??Fâ? to point â??Gâ?, from point â??Gâ? to point â??Hâ? and from point â??Hâ?

to point â??Zâ?. There is no dispute between the parties that the road is in existence between the boundary wall of the open land and the periphery of

the village. This road has been provided by the respondents and it is used by the general public for access either from the village or elsewhere. The

petitioner has prayed that access be provided through the area which has been marked as â??Open Landâ? and where construction is being carried

out to enable the villagers to access the service road beyond the open area.

11. In our view, this relief sought cannot be granted as no restrictions and fetters

can be put over the land which belongs to Airport Authority of India and granted on lease to respondent No. 3 for the purposes of construction of Airport and Flats. Moreover, the respondents have already granted access to the petitioners which has been shown from point X to point H and G and the reference in the order of the Supreme Court is with regard to the construction of the wall on the periphery of the village and not beyond. As we have stated earlier, the rights of the respondents cannot be curtailed in the present proceedings, when the petitioners are unable to show any rights over the land on which restriction is sought.

12. We find the writ petition to be completely misplaced. The same is accordingly dismissed.