

(2023) 05 DEL CK 0267

In the Delhi High Court

Case No : Civil Writ Petition No. 7616 Of 2023, Civil Miscellaneous Application
No. 29527 Of 2023

Sudesh & Anr.

APPELLANT

Vs

S.H.O. Police Station Kanjhawala & Anr.

RESPONDENT

Date of Decision : 31-05-2023

Acts Referred:

Citation : (2023) 05 DEL CK 0267

Hon'ble Judges : Mini Pushkarna, J

Bench : Single Bench

Advocate : Anand Yadav, Mohit Bhardwaj

Final Decision : Disposed Of

Judgement

Mini Pushkarna, J

W.P.(C) 7616/2023 & CM APPL. 29527/2023 (Application on behalf of the petitioner under Section 151 CPC for interim relief)

1. The present writ petition has been filed with prayer for restraining the respondents particularly respondent No.1 and its officials from interfering in the construction of boundary wall or directing to stop the construction of boundary wall of the land and plots of the petitioners.

2. It is the case of the petitioners that the petitioners are owner of land comprised in Khasra No.70/2 (4-16), 70/3 (4-16), 70/8 (4-16), 70/9 (4-16), 70/12/1 (1-4), 70/11/2 (4-13)(North Side), 70/10/2 (1-0),69/6 (0-5)(South Side) situated in Village Qutab Garh, Delhi. It is submitted that in order to secure their land, the petitioners decided to construct boundary wall around their land in May, 2023.

3. It is submitted that though no permission is required from any authority for constructing a boundary wall, but to avoid any harassment or interference in the construction of the boundary wall, the petitioners intimated the respondent No.1

and respondent No.2 vide letters dated 22.05.2023, in respect of their intention to construct the boundary wall. It is further submitted that thereafter construction of the boundary wall was commenced on 23.05.2023. Workers of the petitioners started digging for foundation of the boundary wall. However, there are interferences from the respondents viz. the police personnel from Police Station Kanjhawala and Revenue Staff.

4. It is submitted that the village in question has already been urbanized. Therefore, respondent No.2 or any other person from the Revenue Staff has no jurisdiction or authority to interfere in construction of the boundary wall of the land of the petitioners.

5. On the last date of hearing, learned counsel appearing for the respondents had sought time to take instructions.

6. Today, learned counsel is present along with the SHO of the concerned police station i.e. Police station Kanjhawala. Learned counsel on instructions submits that the area in question has been inspected by the respondents. It is submitted that no construction material is lying at the site in question. It is further submitted that the petitioner has not commenced any construction activity for the purposes of construction of any boundary wall and that there has been no interference on behalf of the respondents ever. He further submits on instructions that the respondent would have no objection if any boundary wall is constructed by the petitioner to bound his private land, as per building plan.

7. I have heard learned counsels for the parties.

8. Learned counsel for the respondents has categorically submitted that the respondents would have no objection if the petitioners construct any boundary wall in order to secure their private land.

9. Learned counsel for the petitioners has also drawn the attention of this Court to Clause 2.0.1(d) (vii) of Chapter 2 of the Unified Building Bye Laws for Delhi 2016, to submit that no permission as such is required for construction of any boundary wall.

10. In view of the aforesaid position of law as well as statement made on behalf of the respondents, the present writ petition is allowed.

11. The petitioners are allowed to construct boundary wall in order to bound their private land. However, it is clarified that construction of boundary wall by the petitioners to secure their private land, does not entitle the petitioners to carry out any unauthorised construction against the Building Bye Laws in their private land.

12. In case any unauthorised construction is found to have been carried out by the petitioners in their private land, the respondents would be at liberty to take action as per law.

13. With the aforesaid directions, the present petition is disposed of.