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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

% **Date of Decision: 30th July, 2025**

+ W.P.(C) 11207/2025 & CM APPL. 46090/2025, CM APPL. 46091/2025

CHANDRA SHEKHAR

.....Petitioner

Through: Mr. Rohit Sharma, Mr. Nikhil Purohit, Mr. Jatin Lalwani, Mr. Jai Rawat, Advocates

versus

MUNICIPAL CORPORATION OF DELHI
AND ORS.

.....Respondents

Through: Mr. M.S. Oberoi, SC-MCD (M:9811551525)
Mrs. Manika Tripathy, Mr. Akash Mohan, Advocates for R-2 (M:9811831835)
Ms. Avni Singh, Panel Counsel-GNCTD with Ms. Prapti, Advocate (M:9958018998)

CORAM:

HON'BLE MS. JUSTICE MINI PUSHKARNA

MINI PUSHKARNA, J (ORAL):

1. The present writ petition has been filed seeking quashing of the order dated 22nd July, 2025, passed by the Executive Engineer-II, South Zone, Municipal Corporation of Delhi ("MCD"), directing a joint demarcation program involving officials of the Delhi Development Authority ("DDA"), MCD and the Revenue Department, on 31st July, 2025 to determine the extent of encroachment on government land.
2. Learned counsel for the petitioner draws the attention of this Court to the order dated 22nd July, 2025, wherein, it is stated that the survey and



demarcation, will be carried out using the Total Station Method technology.

3. Learned counsel for the petitioner submits that the said order has been passed purportedly pursuant to the directions issued by this Court in *W.P.(C) 8286/2025*, *vide* order dated 30th May, 2025 and by taking refuge of the said order, the respondents are trying to demarcate the property of the petitioner.

4. Learned counsel for the petitioner submits that as far as the right and title of the petitioner is concerned, the same already stands settled.

5. He draws the attention of this Court to the judgment dated 28th February, 2012, passed by the Court of Additional District Judge-03, South District, Saket Courts, New Delhi in *RCA 01/2010*, titled as “*Shri Chander Shekhar Versus Municipal Corporation of Delhi*” and more specifically to Paragraphs 7.2 and 7.6 of the said judgment, which read as under:

“xxx xxx xxx

7.2 The award No. 1770 (Ex. PW-1/8) enumerates various pieces of land acquired, inclusive of land comprising Khasra No. 109/2 (0-08). The award is not in respect of appeal property comprising Khasra No. 109/1, measuring 150 sq. yards. The land which was handed over to respondent was through Kabza Karwai after its identification and demarcation in the presence of various officials of Land Acquisition Department, Revenue Authorities, Assistant Engineer and Junior Engineer, besides other subordinate staff, the proceeding to this effect was reduced into writing (Ex. PW-1/9 and Ex. PW-1/15). Witness/PW-6 Ram Singh, Sadar Kanoongo also confirms that award No. 1770 is not in respect of appeal property under Khasra No. 109/1. The appeal property was neither acquired property nor there was award in respect thereof nor it was handed over to the respondent. Therefore, neither the appeal property was acquired nor it was handed over to the respondent nor the respondent can claim that it was handed over by the DDA. Otherwise also, it is apparent that the appellant has been proved in possession of appeal property, the respondent was not found or proved in possession of appeal property. Lastly, in site plan (Ex. PW-1/16), the respondent had cross examined PW-1 in detail but the two parks at point “X” and “Y” are located at distinct places from the appeal property delineated in colour red.

xxx xxx xxx



7.6 In the Khasra Girdawari of 1995-96, 1996-97 and 1997-98 reflects the name of Smt. Rajbala, D/o Shri Thokan. The Khasra Girdawari of 1999-2000 (Ex. PW-3/A), reflects the ownership as Shamlat Deh with the appellant Chander Shekhar as cultivator/possessing it in respect of land comprising Khasra No. 109/1 (0-3) as Gair Mumkin Abadi i.e. non cultivable land. All these documentary record proved the case of appellant and the Trial Court has also considered such a record but findings have been given contrary to it. The appeal property is a private land. The appeal property is not a public land nor it was acquired under the Land Acquisition Act nor it was handed over to the respondent by DDA on 05.10.1988. Thus, the findings returned by the Trial Court on Issue No. 1 and 2 and consequently on Issue No. 8 are required to be set aside, by declaring that it is not a public / government land but a private land and the appellant is entitled to use it. The appellant had rightly filed the Suit for Declaration and Injunction, the reliance can be placed on Anathula Sudhakar vs. S.P. Bucchi Reddy (Dead) (2008) 4 SC 594, wherein it was held that where the plaintiff is in possession but his title to the property is in dispute or under a cloud, or where the defendant asserts title thereto and there is also a threat of possession from the defendant, the plaintiff will here to sue for declaration of title, and consequential relief of injunction.

xxx xxx xxx”

6. By referring to the aforesaid judgment, learned counsel for the petitioner submits that the right of the petitioner in the property measuring 150 sq. yards in *Khasra No. 109/1, bearing Municipal No. 103-G, Jamroodpur, New Delhi*, has been accepted.

7. He further submits that the decree clearly states that the said land is the private property of the petitioner herein. He also draws the attention of this Court to the decree passed in *RCA 01/2010*, which reads as under:

“The appellants/plaintiff above named filed appeal No. RCA 01/2010 to the Court of Ld. District Judge, Saket Courts Complex, Saket, New Delhi from the final decree/judgment dated 31.08.2009 from the Court of Ms. Ravinder Bedi, Ld. ASCJ, South, Delhi, in the above suit.

This appeal coming for hearing before me on 28.02.2012 in the presence of proxy counsel with appellant and counsel for respondent. It is ordered that the appeal is allowed by setting aside the impugned decree I judgment dated 31.08.2009 on the points of Issues no. 1, 2 and 8, while holding/ decreeing the appeal in favour of the appellant and against the respondent that the appeal property measuring 150



sq. yards, forming part of Khasra No. 109/1, bearing Municipal No. 103-G, Jamroodpur, New Delhi (more particularly shown in site plan Ex. PW-1/16, in the suit file), is the private property of the appellant and he has every right to use and occupy it and the appeal property is not a public land. It is further decreed in favour of appellant and against the respondent, while restraining the respondent by way of permanent injunction, from interfering with the peaceful possession of appeal property i.e. measuring 150 sq. yards, forming part of Khasra No. 109/1, bearing Municipal No. 103-G, Jamroodpur, New Delhi and from making any encroachment or doing any fencing thereon in any manner whatsoever. Both the parties will bear their own costs.

Given under my hand and the seal of the Court, this 28th February, 2012.”

8. Thus, it is the case on behalf of the petitioner that the private land of the petitioner cannot be disturbed in any manner.

9. He further submits that the petitioner is in occupation of the 150 sq. yards of the property in question, in terms of the aforesaid decree in his favour.

10. Issue notice. Notice is accepted by learned counsel for the respondents

11. Learned counsel for the respondent no.1, i.e., MCD submits that besides action for unauthorized construction, in view of the directions passed by this Court in W.P.(C) 8286/2025, action with regard to encroachment on public land is also to be taken. He, thus, submits that the order for a joint demarcation program by the use of Total Station Method technology, has rightly been issued by the MCD.

12. Having heard learned counsels for the parties, this Court notes that the earlier writ petition, i.e., W.P.(C) 8286/2025, had been filed with the following prayer:

“xxx xxx xxx

a) Issue a writ of mandamus directing the respondent no. 1 MCD, to take appropriate action, including demolition and retrieval of government/MCD land encroached upon by respondents no. 2 to 5



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and to demolish the unauthorized construction raised by the respondents no. 2 to 5; and

(b) pass such other or further order(s) as this Hon'ble Court may deem fit and proper in the facts and circumstances of the case.

xxx xxx xxx”

13. The aforesaid writ petition was disposed of by this Court *vide* order dated 30th May, 2025, in the following manner:

“1. The present writ petition has been filed by the Zamrudpur Resident Welfare Association representing the residents of Village Zamrudpur, Opp. Lady Shri Ram College, New Delhi-110048, seeking directions to respondent no.1-Municipal Corporation of Delhi (“MCD”), to take action against the encroachment and unauthorized construction having been raised by respondent nos. 2 to 5.

2. Learned counsel appearing for the petitioner submits that various representations have been made to the concerned authorities, but till date no action has been taken.

3. He submits that respondent nos. 2 and 3 have made encroachments in property no. 103-G, Khasra No. 109/1, Village Zamrudpur, New Delhi-110048.

4. Learned counsel appearing for the petitioner draws attention of the Court to Annexure P-2 to submit that the yellow portion is the extent of encroachment done by respondent nos. 2 and 3, while the red portion shows the original area of the property in question. The said site plan attached as Annexure P-2 is reproduced as under:-





5. *Responding to the same, learned counsel appearing for respondent no.1/ MCD, submits that qua the property in question, there have been multiple litigations.*

6. *He submits that an appeal is already pending before the learned Appellate Tribunal MCD (ATMCD), which is next listed on 1st August, 2025. He further submits that demolition order and sealing orders have already been passed with respect to the property in question.*

7. *At this stage, learned counsel appearing for the petitioner submits that the proceedings before the learned ATMCD are qua the unauthorized construction and not the encroachment.*

8. *Considering the submissions made before this Court, since it is the case of the MCD that demolition and sealing proceedings have already been initiated with respect to the property in question, it is directed that in case the issue of encroachment has not been taken cognizance of by the MCD, the same shall also be considered by the MCD.*

9. *The MCD is directed to inspect the property in question, and assess whether any encroachment is existing therein. In case any encroachment is found to exist, requisite action shall be taken following the due process of law.*

10. *With the aforesaid directions, the present writ petition along with the pending applications, stands disposed of."*

14. Perusal of the aforesaid order passed by this Court clearly shows that the only direction issued by this Court is with regard to action to be taken by MCD in case there is any encroachment on public land. However, this Court has not directed that private property of the petitioner be disturbed in any manner.

15. This Court takes note of the fact that there is already a judgment and decree in favour of the petitioner, wherein, the right and title of the petitioner has been recognized.

16. Therefore, in view of the fact that there is already a judgment and decree in favour of the petitioner thereby recognizing the rights of the petitioner in his property measuring 150 sq. yards, it is clarified that this



Court has not passed any direction, which would be in contradiction to the private rights of the petitioner, having been recognized by the aforesaid judgment and decree.

17. This Court further takes note of the submissions of learned counsel for the petitioner that the area under ownership and possession of the petitioner measures 150 sq. yards.

18. Accordingly, MCD, along with the other concerned authorities, are granted liberty to measure the property of the petitioner and assess that the same measures 150 sq. yards.

19. In case the property in occupation of the petitioner is beyond 150 Sq. yards, requisite action shall be taken by the petitioner, in the first instance, to remove the encroachment, within a period of four weeks of pointing out such encroachment by the concerned authorities.

20. In case the area in occupation of the petitioner is beyond 150 sq. yards, and the petitioner does not take the requisite action despite directions by the concerned authorities, the concerned authorities are at liberty to take necessary action for removal of the encroachment.

21. Needless to state that the proceedings pending before the Appellate Tribunal MCD (“ATMCD”), with regard to the unauthorized construction, shall continue and be decided, in accordance with law.

22. With the aforesaid clarification and direction, the present writ petition, along with the pending applications, is disposed of.

MINI PUSHKARNA, J

JULY 30, 2025/au