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

+ **W.P.(C) 4757/2022**

THE MANAGING COMMITTEE OF DELHI WAQF BOARD

..... Petitioner

Through: Mr. Shams Khwaja, Adv.

versus

THE GOVERNMENT OF NCT (GNCT), DELHI & ORS.

..... Respondents

Through: Mr. Sanjay Katyal, SC along with Ms. Chand Chopra, Ms. Neha Bhupathiraju, Mr. Nihal Singh, Advs. and Mr. S.K. Meena, Dy. Director, DDA.

Mr. Gaurav Narayan, Ms. Farhat Jahan Rehmani and Mr. Firoz Iqbal Khan, Advs. for R-6.

CORAM:

HON'BLE MR. JUSTICE SACHIN DATTA

ORDER

% **05.02.2024**

CM APPL.6824/2024 (filed on behalf of the petitioner for directions)

1. This is an application seeking “correction” of the order dated 31.01.2024.
2. The application is premised on the averment that there was some inadvertent omission in the order dated 31.01.2024. The said averment is thoroughly misconceived. There is no inadvertent omission/mistake in the order dated 31.01.2024. As such, the present application is dismissed. However, since the applicant presses for urgent interim orders, CM APPL.4013/2024 is taken up for hearing today itself.



CM APPL.4013/2024 (filed on behalf of the petitioner for interim relief)

3. It has been strenuously contended by learned counsel for the petitioner that the demolition action has been wrongly/illegally taken by the DDA in respect of the structure standing on Khasra No.1151/2 admeasuring 7 bigha & 13 biswa at Village Mehrauli, Ward No.2, behind Shahi Idgah, Tehsil Mehrauli, New Delhi-110030 without following the due process of law.

4. It is further contended that the said action has been taken in disregard of pre-existing orders passed by this court, including order dated 23.03.2022 passed in the instant W.P.(C)4757/2022, whereby a survey was directed to be conducted in respect of the subject land. It is submitted that even in some other prior proceedings, there were directions issued to the effect that proper fencing should be carried out in the area in question. In this regard, reference is made to order dated 19.05.1997, passed in CrI.W.400/1996.

5. Mr. Sanjay Katyal, learned counsel for DDA submits that the present petition is itself liable to be dismissed since the petitioner evidently has no *locus standi* to file the present petition/ application. He draws attention to an order dated 10.01.2024 issued by Govt. of NCT of Delhi, which states as under:

**“GOVERNMENT OF NATIONAL CAPITAL TERRITORY OF DELHI
OFFICE OF THE DIVISIONSL COMMISSIONER
MINORITY AFFAIRS BRANCH
5-SHAM NATH MARG, DELHI-110054.**

F.No.43(4)/Minority/Div.comm./2022/28-35

Dated: 10.01.2024

ORDER

The Competent Authority has appointed Shri Ashwani Kumar, Principal Secretary, Home Department, Government of NCT of Delhi as Administrator of the Delhi Waqf Board till the time Board is re-constituted.



(Awanish Kumar)
Deputy Commissioner-II (HQ)
Revenue Department, GNCTD.”

6. It is contended that after the issuance of the said order, the petitioner has no locus whatsoever to represent the Delhi Waqf Board and as such, the present petition itself is not maintainable.

7. Further, it is contended that the action taken by the DDA was pursuant to a decision of the Religious Committee meeting held on 04.01.2024, whereby with regard to the area/land in question, the following recommendations were made:

“Proposal-1: Regarding proposal for grant permission for removal of unauthorised religious structures existing at M/o M.P. Green Area at Sanjay Van.”

3. The Director (Hort.) SE, DDA, informed that there are 1 No. of Masjid/Mudarsa & Graveyard, 4 Nos. Of Mazars which are existing on land under jurisdiction of Horticulture Division IV, DDA and physical possession of the said land is with DDA and is part of South Centre Ridge (Reserve Forest) which is declared as “NO CONSTRUCTION ZONE” by Hon’ble Supreme Court of India.
4. DDA, has submitted the details of unauthorised religious structures proposed for removal from the site as follow:

Sl. No.	Name of structure	Site Name/Location	Area in Sqm. (approx.)	Khasra No.
1	Shahi Masjid & Madarsa/Kabristan	M/o Aff. M.P Green Area Sanjay Van (Reserve Forest)	3500	1666 min
2	Temple near Gate No.4		372	18, Village Lado Sarai
3	Ancient Shiva Temple		154.1	
4	Shiva Temple		71.17	
5	Kali Mandir		70.95	16666 min
6A	Mazaar (2 structures)		97.5	2755/1764min
6B	Mazaar (2 structures)		3.5	2755/1764min
6C	Mazaar (3 structures)		5	2755/1764min
6D	Mazaar (4 structures)		35	2755/1764min



6E	Mazaar (19 structures)		111.7	2755/1764min
6F	Mazaar (6 structures)		31.85	2755/1764min
6G	Mazaar (1 structures)		37.5	1666min
6H	Mazaar (4 structures)		64	2755/1764min
6I	Mazaar (20 structures)		259.5	2755/1764min
6J	Mazaar (2 structures)		44	2755/1764min
6K	Mazaar (1 structures)		13.69	2737/1726min
6L	Mazaar (1 structures)		44.89	
6M	Mazaar (1 structures)		9	2734/1722min
6N	Mazaar (3 structures)		11.75	2755/1764min
6O	Mazaar (4 structures)		25	2755/1764min
6P	Mazaar (4 structures)		3	1666 min

5. *The representative of Delhi Police stated that no documentary proof is available with respect to since when the structures in question existed. They stated that requisite police force will be provided as and when required.*
6. *The representative of Delhi Waqf Board has claimed that the said land is Waqf property mentioned in Gazette notification dated 04.10.1984 having 29 Bighas 15 Biswas in form of Graveyard, Mazar (Masjid) mentioned in Sl. No. 13 and notification dated 21.10.1982 having 14 Biswas mentioned at Sl. No.50.*
7. *The representative of DDA has informed that the land in question on which illegal structures exists were acquired by DDA vide award No.36/80/81 and 70-71 for the planned development of Delhi. DDA has denied the claim of Delhi Waqf Board.*
8. *The committee took note of the order of Hon'ble Supreme Court dated 29.09.2009 in Special Leave to Appeal No 8519/2006 and concluded that the land in question is acquired land illegal structures on such acquired land needs to removed. The committee noted that there cannot be any scope for any objection by Delhi Waqf. In fact award in acquisition predated the notification of Delhi Waqf Board. Also the encroachment needs to be removed so as to protect the Ridge (Reserve Forest). DDA have clearly stated that the structures are unauthorisedly constructed on the DDA land. After going through all the documents and photographs of the unauthorised religious structures placed before the committee by DDA, DWF and after taking into consideration the observation of local areas police and Special Bench, the Religious Committee **recommends** the removal of encroachment/illegal structures from the DDA land. This clearance by Religious Committee is also in consonance with order of Hon'ble Supreme Court in Special Leave to Appeal No.8519/2006, Union of India Vs. State of Gujarat & Ors. and also in SLP(C) No.3109/2011, Jagmal Singh Vs.*



State of Punjab & Ors.”

8. He contends that removal of the concerned structure was in consonance with, and in implementation of the said recommendation. He further states, on instructions, that most of the khasra numbers referred to in para-4 of the aforesaid minutes of the Religious Committee held on 04.01.2024 correspond to the new khasra numbers 115/2, admeasuring 7 bighas and 13 biswas situated in Village Mehrauli, in respect of which action has been taken by the DDA.

9. It is emphasized by Mr. Katyal that the action taken by the DDA is mandated in terms of the orders of the Supreme Court in SLP No.8519/2006 dated 29.09.2009 and in SLP (C) No.3109/2011, referred to in the minutes of the meeting of Religious Committee. He further contends that the acquisition of the concerned land in question took place vide award No.36/80-81 and 70-71 for the planned development of Delhi and that it is not even the petitioner's case that the said acquisition has lapsed.

10. It is also submitted on behalf of the DDA that the demolition action in respect of the concerned land/structure, stands completed.

11. The aforesaid submissions of Mr. Katyal, learned counsel for DDA, are controverted by learned counsel for the petitioner.

12. Learned counsel appearing for Delhi Waqf Board affirms that the CEO of the Delhi Waqf Board, Dr. Mohd. Rehan Raza attended the meeting of the Religious Committee on 04.01.2024 in which the aforesaid recommendation was made. However, learned counsel submits that the said CEO raised written objection as to the proposed recommendation/ action.



13. In the above conspectus, the legality of the aforesaid recommendation of the Religious Committee, and the consequent action taken by the DDA, is required to be pronounced upon after finally hearing respective counsel.

14. List for further consideration on 12.02.2024, the date already fixed.

15. In the meantime, it is directed that till the next date of hearing, status quo shall be maintained in respect of land comprising new khasra numbers 115/2, admeasuring 7 bighas and 13 biswas situated in Village Mehrauli, Tehsil Mehrauli, New Delhi.

16. It is made clear that the aforesaid order shall not prevent the DDA/ other civic agencies from taking requisite steps in the adjoining areas/land for the purpose of routine maintenance/restoration/other development works.

SACHIN DATTA, J

FEBRUARY 5, 2024/cl