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

+ W.P.(C) 12763/2024 & CM APPLs. 53159-53160/2024

MOHAMMAD MAZHAR AHMEDPetitioner

Through: Mr. M. Sufian Siddiqui, Advocate
with Mr. Rakesh Bhugra, Md.
Niyazuddin and Ms. Alya Veronica,
Advocates and Md. Mazhar Ahmed
petitioner in person.

versus

GOVT OF NCT OF DELHI & ORS.Respondents

Through: Mr. Santosh Kr. Tripathi, SC(Civil)
GNCTD with Mr. Rishabh
Srivastava, Advocate for respondents
No.1, 4 and 5.

Mrs. Farhat Jahan Rehmani, ASC
with Mr. Monis Faridi, Advocate for
respondent No.2.

Mr. Badar Mahmood, Standing
counsel for MCD with Mr. Ammar
Ahmad, Advocate.

Mr. Kirtiman Singh, CGSC with Mr.
Waize Ali Noor, Mr. Varun Pratap
Singh and Mr. Ranjeev Khatana,
Advocates for Delhi Police
SI Amit, PS Nabi Karim, Advocate.

CORAM:

HON'BLE THE ACTING CHIEF JUSTICE

HON'BLE MR. JUSTICE TUSHAR RAO GEDELA

ORDER

12.09.2024

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1. At the outset, learned counsel for petitioner does not wish to press prayer (i) of the writ petition. He states that for the said relief, the petitioner would file appropriate proceedings in accordance with law. Accordingly, without prejudice to the rights and contentions of the learned counsel for



petitioner, prayer (i) is deleted.

2. Learned counsel for the petitioner has drawn this Court's attention to a property namely, Qabristan Ahata Badruddin, situated at Khasra No.103, Mauza Qadam Sharif, Idgah Road, Delhi, which is a notified Waqf property as per the Gazette Notification dated 8th September, 1977. He states that the property has been subject to alienation by way of fraudulent transactions which have resulted in unauthorized construction on the property and the graves in the premises being desecrated.

3. He states that the alienation and consequent illegal construction is violative of Sections 51, 52, 52A of the Waqf Act, 1995 and Sections 298 & 301 of the Bharatiya Nyaya Sanhita, 2023. He further states that Section 104A of the Waqf Act, 1995 completely prohibits any form of alienation of Waqf property and therefore the silence on part of the Respondents with regard to the said alienation is not justified.

4. Issue notice.

5. Learned counsel for the respondents accept notice. They pray for and are permitted to file their counter affidavits within four weeks. Rejoinder affidavit, if any, be filed before the next date of hearing.

6. It is clarified that any construction carried out shall be subject to the further orders to be passed by this Court. It is, however, directed that status quo shall be maintained with regard to the title.

7. List on 11th November, 2024.

ACTING CHIEF JUSTICE

TUSHAR RAO GEDELA, J

SEPTEMBER 12, 2024/js