

Sultan & Ors. vs Delhi Development Authority & Ors.

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Court : Delhi Orders

Decided On : Feb-26-2026

Judge : Hon'Ble Mr. Justice Jasmeet Singh

Appeal No. : W.P.(C)/14728/2022

Appellant : Sultan & Ors.

Respondent : Delhi Development Authority & Ors.

Advocate for Def. : Ms. Firdouse Qutb Wani, Mr. Md. Zaryab Jamal Rizvi, Mr. Dilshad Ahmed, Mr. Tushar Sannu, Ms. Shaoni Das, Ms. Manika Tripathi, Ms. Chand Chopra, Mr. Punishk Handa, Mr. Aakash Mohar, Mr. Giri Raj SO, Mr. Tarachand AD, Mr. Abhey Patwari LM

Advocate for Pet/Ap. : Mr. Kaushal Jeet Kait, Mr. Parimal Bhatia

Judgement :

* IN THE HIGH COURT OF DELHI AT NEW DELHI

+ W.P.(C) 14728/2022 & CM APPL. 45241/2022, CM APPL. APPL. 60169/2025 SULTAN & ORS.Petitioner Through: Mr. Kaushal Jeet Kait, Adv, Mr. Parimal Bhatia, Adv

versus

DELHI DEVELOPMENT AUTHORITY & ORS.Respondent Through:
Adv. Ms. Firdouse Qutb Wani, Adv. Mr. Md. Zaryab Jamal Rizvi, Adv. Mr.
Dilshad Ahmed for R4 Mr. Tushar Sannu, Ms Shaoni Das, Adv. for
R2,3,5 Ms. Manika Tripathi, SC with Ms. Chand Chopra, Adv Mr.
Punishk Handa, Adv Mr. Aakash Mohar, Adv with Mr. Giri Raj
SO/Horti./DDA Mr. Tarachand AD/Horti./DDA Mr. Abhey Patwari
LM/SZ/DDA

CORAM:

HON'BLE MR. JUSTICE JASMEET SINGH

ORDER

% 26.02.2026

1. This is a writ petition filed under Article 226 of the Constitution of

India seeking the following prayers:- (a) Pass appropriate directions particularly in the nature of mandamus commanding the Respondents not to interfere with nature, character and user of the century old Grave Yard and change the same of an ancient Grave Yard fallen in Khasra No. 200 behind Tomb of FerozshahTuglakmeasuring approximately 8 Bigha 1 Biswas at Village: Hauz Khas, New Delhi in any manner whatsoever with further commanding them to treat it as such which is apparent and established from

the Revenue record annexed with the Petition;

(b) Remove the boundary wall having been raised by the Respondents within the time granted by this Hon'ble Court;

2. It is stated that the ancestors of the petitioner were residing at Village,

Hauz Khas, New Delhi and they developed and carved out a parcel of land measuring approximately 8 Bigha 1 Biswa at Village Hauz Khas for the purpose of

burial of their dead persons. The graveyard is treated as a family graveyard of the petitioners and their family members.

3. The learned counsel for the petitioners, states that in the revenue record of 1991-1992, the same is duly shown and also in the Jamabandi. On 06.07.2015, the graveyard is shown under the supervision of Delhi Waqf Board, which is a disputed question between the petitioners and the Waqf Board.

4. It is stated that the respondent No. 1/DDA has constructed a boundary wall depriving the petitioners entry to the graveyard and hence, the present petition has been filed.

5. Ms. Tripathi, learned standing counsel for the respondent No. 1/DDA,

on instructions, submits that, in the present case, the graveyard in question is in the middle of a notified forest. She further states that a joint survey was conducted and it was found that one old grave bearing a board dated 1988, one platform (Chabutara Nos. 1, 2 & 3), two permanent graves, one mazar, and approximately 100 pits marked with stone slabs at various places exist in the forest area of Hauz Khas.

6. It was further found that one newly buried grave (approximately 3-4 days old) had been made on land belonging to the DDA, and that portions of DDA land were being illegally used for burial purposes. She further states that the petitioners are usurping the forest land which the respondent No. 1 is under an obligation to protect.

7. It is also stated that the same constitutes Khasra No. 196, Village, Hauz Khas Village, which is the exclusive property of DDA.

8. In the present case, from the facts recorded above, it is clear that the

petitioners are seeking protection of their easementary rights for which a Civil Suit is the appropriate remedy. A Coordinate Bench in Mahendra

Rana v. DDA, 2022 SCC OnLine Del 4657 has held as under:- 20. Even otherwise, in my opinion the relief of passage cannot be granted in the writ jurisdiction for the simple reason that the grant of easementary rights and determination of the same requires adjudication of disputed

facts which may be better suited to be determined by way of a

civil suit, if the Petitioner so desires. The Respondent No. 1 has categorically denied that the land of the Petitioner has become landlocked and cannot be accessed by the Petitioner. The relevant portion of the written submission is reproduced below: b. A perusal of the site plan which has been filed along with the present written arguments would show that the petitioner cannot be granted any passage and that too by DDA as next to the land in question is private land and on which land DDA has neither any control nor any ownership. It is also a matter of fact

which cannot at all be disputed by the petitioner that as per the site plan, the petitioner land in Khasra No. DDA acquired land and on the other three sides there are private lands attached to Khasra No. 24, 171/2. It is also trite to submit that the Petitioner has another land which is comprised in khasra No. having direct excess to the land in.

9. Additionally, I am also of the view that the petition raises disputed

questions of fact regarding the identity of the graveyard, the place where it is situated and the petitioners have not filed any document to show its ownership of the graveyard/location of the graveyard.

10. Ms. Wani, learned counsel for the respondent No. 4 states that the

graveyard is belonging to the Delhi Waqf Board. However, Delhi Waqf Board has not filed any writ petition before this Court, which is pending adjudication for the said graveyard.

11. Mr. Kait, learned counsel for the petitioner states that the same is de hors the pleadings.

12. As and when the petition will be filed, the same will be adjudicated on its own merits.

13. The petition is disposed of in the aforesaid terms. JASMEET SINGH, J
FEBRUARY 26, 2026 / (MS)

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