

Mrs. Roseline Wilson And Ors vs Archaeological Survey Of India And Ors on 21 March, 2018

Author: Rajiv Shakdher

Bench: Rajiv Shakdher

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* IN THE HIGH COURT OF DELHI AT NEW DELHI

+ W.P.(C) 2725/2018

MRS. ROSELINE WILSON AND ORS. Petitioner

Through: Mr. Virag Agarwal with Ms. Shalini
Agarwal and Mr. Vibhor Agarwal,
Adv.

versus

ARCHAEOLOGICAL SURVEY OF

INDIA AND ORS. Respondent

Through: Mr. Rajesh Gogna, CGSC with Mr.
Akhilesh Kumar, Adv. for R-1 to 3.

CORAM:

HON'BLE MR. JUSTICE RAJIV SHAKDHER
ORDER

% 21.03.2018

CM No.11088/2018

1. Allowed, subject to all just exceptions.

W.P.(C) 2725/2018 & CM No.11087/2018

2. A challenge via this writ petition has been laid to the order dated 5.3.2018 passed by the Archaeological Survey of India (for short "ASI"). The lis between the parties obtains vis-a-vis a monument described by ASI as "D Eremao Cemeteray".

3. According to ASJ, the said structure is a monument of national importance and is located in Kishan Ganj, Delhi. The fact that it was declared a monument of national importance is sought to be supported by ASI by placing reliance on to Notification No.7331, dated 13.12.1922, which was published in the Gazette of India on 23.12.1922. 3.1 A copy of this Notification is annexed as Annexure P-18 to the instant writ petition.

4. The petitioners, who are residents of Kishan Ganj, Delhi claim to be the inhabitants of this area for several decades. To ascertain their right to the subject area, the petitioners rely upon the Jamabandi of 1921-22.

5. Prima facie, to my mind, the Jamabandi itself would not result in title being conferred to the petitioners. However, what needs to be ascertained from the ASI the exact location of the aforesaid monument i.e., D Eremao Cemetery.

6. Mr. Gogna, who appears for the respondents, says that he will place on record the photographs and file official site plan as also other supporting documents pertaining to the subject area, so that the exact geographical position of the said monument can be known.

6.1 Let the needful be done within three weeks from today. Copies of the photographs, documents, as well as, affidavit, if any, filed by the ASI, will be furnished to the counsel for the petitioners.

7. Renotify the matter on 20.8.2018.

8. In case any coercive measures are taken, liberty is given to the petitioners to approach this Court.

RAJIV SHAKDHER, J MARCH 21, 2018/pmc