

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

+ (1) W.P.(C) 12417/2006

MEHAR CHAND

..... Petitioner

Through Mr. S.K. Rungta, Advocate.

versus

GAON SABHA MUKUND PUR & ORS.

..... Respondent

Through Mr. Amiet Andlay, Advocate.

+(2) W.P.(C) 2118/2007

MEHAR CHAND

..... Petitioner

Through Mr. S.K. Rungta, Advocate.

versus

TEHSILDAR CIVIL LINES DELHI &

..... Respondent

Through Ms. Avinsh Ahlawat & Ms. Nidhi
Gupta, Advocates for the respondent.

CORAM:

HON'BLE MR. JUSTICE SANJIV KHANNA

ORDER

% 06.02.2008

1. The petitioner Mr. Meher Chand has filed two writ petitions. The first W.P. (C) No. 12417/2006 is for issue of mandamus and direction to the respondents to dispose of his application under Section 85 of the Delhi Land Reforms Act, 1954 (hereinafter referred to as the Act, for short). It is stated in the petition that the said application was originally filed in 1971 and pursuant to the remand order passed by the appellate authority, it is still pending.

2. In the second petition, W.P. (C) No. 2118/2007, the petitioner has prayed for quashing of order dated 15th February, 2007 passed by the Tehsildar refusing to correct entries in the revenue record after observing as under:-

“In this context, the case was examined and observed that the case was once referred to the then Deputy Commissioner for further orders clarifying that order regarding entry of mutation are to be complied with or not. Though it is clear that the matter was referred to the DC but further available record is silent that what orders were passed by the then Deputy Commissioner. Since it is a matter of correcting the record after a long spell of 42 years, the applicant was asked to provide the copy of relevant record if available with him so that further action could be taken accordingly but despite a lapse of considerable time the applicant failed to provide the said order which is must to dispose off(sic) the application, hence the application filed by Sh. Mehar Chand to correct the entry in khatoni is hereby considered and rejected.”

3. It is also admitted by the learned counsel for the parties that the Gaon Sabha has filed proceedings under Section 86A of the Act. These proceedings were filed in the year 2002.

4. The dispute pertains to 29.2 bighas of land in khasra No. 321/155 situated in the revenue estate of village Mukund Pur, Delhi. The petitioner relies upon Intakal/sanction of mutation in favour of his father in the year 1960. The original record unfortunately at this distinct point of time is not traceable. The respondents, on the other hand, rely upon observation, which are found in their records that the Intakal order was under review. The respondents are not able to trace out the order passed on the review. It is pointed out that the petitioner had approached for correction of the revenue entries on the basis of Intakal order passed in the year 1960 after nearly 42 years only on 1st March, 2006. Plea of delay and laches is raised.

5. It is no doubt the responsibility of the respondents to maintain their records but at the same time it cannot be denied that the petitioner was aware of the fact that the petitioner's father name and the petitioner's name does not exist in column 4 of the revenue entries from 1969 onwards as is clear from order dated 16th October, 1979 passed by the Additional Collector, Delhi. It may be noted that this order was passed by the Additional Collector on an appeal filed by the petitioner after dismissal of his application under Section 85 of the Act. It is by this order that the matter was remanded back to the Revenue

Assistant. This application under Section 85 of the Act was filed by the petitioner's father in the year 1971. The petitioner's father, therefore, did not move for rectification of the revenue records on the basis of the Intakal made in the year 1960 but had preferred to file an application under Section 85 of the Act. What was reason why petitioner's father did not apply for rectification but preferred to file an application under Section 85 of the Act, is not known and explained but it does lend support to the stand of the respondents that there may have been a review order.

6. Keeping in view the chequered and long history of litigation between the parties and to balance out equities, it will be appropriate to direct as under:-

- i. Proceedings under Section 85 of the Act, which have been pending since 1971, will be decided within a period of 8 months from today.
- ii. The petitioner will be entitled to rely upon the order of Intakal. However, whether the said order was reviewed or recalled will be examined and gone into by the revenue authorities. Similarly, the Revenue Assistant and the revenue authorities will consider entries in the revenue records for the year 1963-64 onwards including the entries made in the year 1968-69 in favour of Gaon Sabha and decide what weightage and credence can be given to the same. What evidentiary material is

attached to the said orders will be also determined by the Revenue Assistant and the revenue authorities.

- iii. The proceedings under Section 86A of the Act shall also continue and will be brought to a logical end as soon as possible.
- iv. The order passed by the Tehsildar on 15th February, 2007 is not set aside but will not be binding on the Revenue Assistant, who shall independently apply his mind and determine the application under Section 85 of the Act. Similar application under Section 86A of the Act shall also be decided independently without being influenced by any of the observations made in the said order.

7. The aforesaid directions are also being given because allegation has been made by the learned counsel for the respondent that the petitioner has been delaying adjudication proceedings under Sections 85 and 86A of the Act on the ground that the present writ petitions are pending. This allegation is controverted and denied by the petitioner.

8. In view of above directions, Mr. S.K. Rungta states that his client will not press his application under Order XIII, Rule 8 filed in the proceedings under Section 85 of the Act.

9. The writ petitions are accordingly disposed of.

10. It is clarified that observations made in this order are tentative and not binding on the revenue authorities, who shall decide all pending matters independently on the basis of evidence and applying their mind.

SANJIV KHANNA, J.

FEBRUARY 06, 2008

VKR