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

% *Judgment delivered on: 7th August, 2014*

+ W.P.(C) 7009/2013

HARITA PANDEY

..... Petitioner

Represented by: Mr. L.M. Asthana and
Mr. Siddhant Asthana, Advs.

versus

GOVERNMENT OF NATIONAL CAPITAL
TERRITORY OF DELHI

..... Respondent

Represented by: Mr. Sanjeev Goyal and
Ms. Sneh Thakur, Advs. for R1, R2 and R4.
Mr. N.S. Dalal, Adv. for R3.

CORAM:

HON'BLE MR. JUSTICE SURESH KAIT

SURESH KAIT, J. (Oral)

CM. NO. 4653/2014

1. Vide the instant application, applicant is seeking the following prayers:

“1. That the petitioner be allowed to amend the petition in Paragraph no. 1, 2 and 3(a) to the effect that the property description therein be taken as 1 Bigha 17 Biswas bearing Mustatil No. 119 in Khasra No. 8 min situated in revenue estate of village Dera Mandi, Tehsil Mehrauli, New Delhi.

2. *That the description of the property in the order dated 21/11/2013 be read as 1 Bigha 17 Biswas bearing Mustatil No. 119 in Khsra No. 8 min situated in revenue estate of village Dera Mandi, Tehsil Mehrauli, New Delhi.*”

2. Ld. Counsels appearing on behalf of the non-applicants submit that they have no objection if the instant application is allowed.

3. Keeping in view the averments made in the instant application and statement of Ld. Counsels appearing on behalf of the non-applicants / respondents, instant application is allowed.

4. Consequently, amended petition is taken on record.

+ **W.P.(C) 7009/2013**

1. Pleadings in the Writ Petition were complete and with the consent of the parties same is considered as pleadings in the amended petition.

2. Vide the present petition, the petitioner is seeking direction for quashing and setting aside the impugned order dated 14.10.2013 passed by Deputy Commissioner / Collector (South), which is as under:

“Appellant present and heard. The land involved in this case is notified as ridge land in year 1996. Though Hon’ble High Court in Writ Petition filed by party has directed to issue corrigendum for de-notification, no such de-notification has been issued so far. In the absence of the de-notification earlier notification of 1996 stands. And hence land cannot be transferred. Application is disposed of accordingly.”

3. Being aggrieved, the petitioner has filed the present Petition.

4. Mr. L.M. Asthana, Id. Counsel appearing on behalf of the petitioner submits that petitioner purchased the property ad-measuring 1 Bigha 17 Biswas bearing Mustatil No. 119 in Khasra No. 8 min situated in revenue estate of village Dera Mandi, Tehsil Mehrauli, New Delhi vide Registered Sale Deed dated 25.2.2011, registered vide no. 3478 in Book No. 1, Volume NO. 10973 of pages 103 to 110 before Sub-Registrar, Delhi from Sh. R.P. Jindal and Sh. Kishore Kumar. Thereafter, the petitioner applied for mutation of the said property in her name before the Office of Revenue Assistant, Sub-Divisional Magistrate, Mehrauli. The mutation order was passed by the Revenue Assistant / SDM on the basis of the direction of High Court passed in CWP No. 2418/1997, directing for issuance of corrigendum for de-notification of the piece of agricultural land which was wrongly notified as forest land.

5. Ld. Counsel appearing on behalf of the petitioner submits that in the aforesaid order, the SDM/Revenue Assistant categorically observed the fact that since the predecessors in the interest of petitioner and certain other co-applicants with the petitioner have already been declared as Bhumidars, the petitioner therefore, cannot go ahead with the mutation. It was also observed that mutation is nothing but an updation of revenue record. Thereafter, SDM/Revenue Assistant allowed the mutation application of the petitioner and 8 other co-applicants.

6. The petitioner thereafter approached the Naib Tehsildar in the Office of SDM for completing the formalities of mutation of the property purchased by the petitioner in her name. The said Tehsildar thereafter instead of mutating the property in the name of the petitioner asked the petitioner to

meet one Khushi Ram, respondent no. 3, who had filed a complaint against the present property being mutated in the name of the petitioner.

7. Mr. Asthana, Id. Counsel submits that the said Khushi Ram, respondent no. 3 had written a complaint to the Deputy Commissioner stating that the property of the petitioner cannot be mutated as same falls within the category of forest land. Thereafter, respondent no. 2 passed an interim stay on all 8 mutation proceedings granted by SDM / Revenue Assistant.

8. Being aggrieved, the petitioner filed an application and made representation to the Deputy Commissioner / Collector (South) detailing the wrong doing and hardships caused to the petitioner.

9. In his representation, the petitioner gave the details of the decision of this Court in CWP 2418/1997, whereby this court clearly directed the respondents to issue the appropriate corrigendum to de-notify the areas wrongly notified as forest land.

10. Id. Counsel submits that the said order was passed in the year 2004 and till date no such notification has been issued by the respondents.

11. The petitioner approached to Forest Settlement Officer under the Office of Deputy Commissioner, District South, New Delhi vide case no. 30/2013 and the said authority passed the order as under:

“The predecessors-in-interest of the petitioner is recognized as a bhumidar, that petitioner would be the bhumidar and would be in cultivatory possession of the land in question, thus the land of the petitioner could not have been notified as a forest

land' and disposed off the said writ petition, wherein issuing 'a writ a mandamus directing the corrigendum to be issued accordingly in view the findings arrived at by the revenues authorities declaring the land in question to be the agricultural land, which is in cultivator possession of the petitioner. The said corrigendum is issued within a maximum period of one month from today, i.e., 24.02.2004.'"

12. On perusal of the order passed by the Forest Settlement Officer, I note, it is opined that the predecessors in "the interest of petitioner is recognized as Bhoomidar. Accordingly, the petitioner would be the Bhoomidar and would be in cultivatory possession of the land in question. Thus the land of the petitioner could not have been notified as a forest land and dispose of the said Writ Petition, wherein issuing a Writ of Mandamus directing the Corrigendum to be issued accordingly in view of the findings arrived at by the revenue authorities declaring the land in question to be the agricultural land, which is in cultivatory possession of the petitioner. The said Corrigendum was to be issued within maximum period of 1 month from the said date, i.e., 24.02.2004".

13. However, till date, direction passed by this Court has not been complied with by the respondents.

14. Ld. Counsel appearing on behalf of the respondents also do not dispute the facts narrated by the counsel for petitioner, however, submits that the land in question has now been de-notified vide order dated 15.01.2014.

15. Keeping in view the facts of the case and the submission of Id. Counsels for the parties, I direct the respondent nos. 1, 2 and 4 to execute the mutation in favour of the petitioner on taking steps by him.

16. Accordingly, instant petition is allowed.

17. At this stage, Mr. N.S. Dalal, Ld. Counsel appearing on behalf of the respondent no. 3 submits that petitioner made scandalous allegations against the respondent no. 3 and prayed to this Court that the same be withdrawn by the petitioner.

18. Since the petition has been allowed by this court by ignoring the allegations made against respondent no. 3, therefore, have no bearing.

19. I expect from the petitioner and respondent no. 3 not to indulge in any litigation either civil or criminal on the allegations made in the petition.

20. The petitioner and respondent no. 3 have also undertaken not to take any legal action against each other.

CM. No.15166/2013

With disposal of the instant petition, the instant application has become infructuous and disposed of as such.

SURESH KAIT, J

AUGUST 07, 2014

jg