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

% *Decided on: 12th May, 2023*

+ RFA 414/2007

GURBACHAN SINGH SALUJA Appellant
Through: Mr. Jai Sahai Endlaw, Mr.
Ashish Kumar, Advocates
(M:8989810577)

versus

VIJAY KUMAR Respondent
Through: Mr. Madan Gera, Advocate
(M:9811085940,email:madange
ra@yahoo.com)

CORAM:
HON'BLE MS. JUSTICE MINI PUSHKARNA
[Physical Hearing/ Hybrid Hearing]

MINI PUSHKARNA, J. (ORAL):

1. The present appeal has been filed against judgment dated 30.03.2007 passed by the Executing Court in Ex. No. 1633/2006, thereby dismissing the execution petition filed on behalf of the appellant herein, and allowing the objections of the respondent/judgment debtor.
2. A suit for Specific Performance and possession was filed on behalf of appellant herein that was decreed in his favour by judgment and decree dated 06.05.1993, as amended by order dated 11.01.1996.
3. The appellant/decreed holder filed execution petition, being Ex. No. 134/1996 before this Court. Subsequently, the execution petition was transferred to District Court in September, 2006 and was re-numbered as Ex. No. 1633/2006.

4. By way of the impugned judgment dated 30.03.2007, the execution petition filed on behalf of the appellant herein was dismissed. Thus, the present appeal came to be filed challenging the same.

5. The primary reason for dismissal of the said execution proceedings filed on behalf of the appellant herein was that the Delhi Land Reforms Act, 1954 (DLR Act) is a complete Code and therefore the Civil Court has no jurisdiction in the matter.

6. Ld. counsel for the appellant has now along with rejoinder filed copy of the notification dated 23.04.1982, which shows that the village in question stands urbanised. Thus, it is the contention that the finding by the Id. Executing Court with respect to the Civil Courts having no jurisdiction, is erroneous.

7. Mr. Madan Gera, Advocate appearing on behalf of the respondent submits that no such plea regarding jurisdiction of the area was ever taken on behalf of the appellant earlier and it is only in this Court, in the present proceedings that this issue has been raised for the first time. However, he does not dispute the fact that the village in question stands urbanised.

8. I have heard Id. Counsels for the parties and with the consent of both the parties, I propose to dispose of the present appeal.

9. The facts on record clearly show that the notification dated 23.04.1982 has been issued by the Municipal Corporation of Delhi (MCD) under Section 507(a) of the Delhi Municipal Corporation Act, 1957. By way of the said notification, the area of Rithala stands

urbanised. The law in this regard has now been settled by Hon'ble Supreme Court in the case of *Mohinder Singh (Dead) Through Lrs and Another Vs. Narain Singh and Others, 2023 SCC OnLine SC 261*, wherein it has been categorically held that once an area has been urbanised, provisions of the DLR Act will not apply to such area. Thus, in view thereof, the findings of the Id. Executing court that Civil Courts will have no jurisdiction in the area, cannot be sustained.

10. Accordingly, the impugned judgment and decree dated 30.03.2007 passed by Executing Court in Ex. No. 1633/2006 is set aside.

11. In the facts and circumstances of the case, the matter is remanded back to the Executing Court, to be heard afresh.

12. At this stage, Id. Counsel for the respondent submits that he may be granted liberty to file additional objections, in view of the new factual circumstances which have now arisen after urbanisation of the village in question. Liberty is granted.

13. The present appeal is disposed of, keeping the rights and contentions of both the parties open, to be raised before the Id. Executing Court.

MINI PUSHKARNA, J

MAY 12, 2023

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