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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **W.P.(C) 3532/2015**
PRAKASHO

..... Petitioner
Through Mr. Harish Malhotra, Senior
Advocate with Mr. Sunil Chauhan,
Advocate

versus

FINANCIAL COMMISSIONER & ORS

..... Respondents
Through Mr. Naushad Ahmed Khan,
Additional Standing Counsel with
Ms. Astha Nigam, Advocate for R-1
Mr. S.C.Maheshwari, Senior
Advocate with Mr. Jabal Singh,
Advocate for R-2
Ms. Nikhar Berry, Advocate for R-3
and R-4
Mr. H. C. Kharbanda and Mr.
M.P.S.Tomar, Advocates for R-5 and
R-6

CORAM:
HON'BLE MS. JUSTICE INDERMEET KAUR

ORDER
% **14.07.2016**

W.P.(C) 3532/2015

The petitioner before this Court is Smt. Prakasho. There has been a round of litigation inter-se the parties. The question before the concerned authority was whether the possession of the petitioner was permissible or adverse. On 20.03.2013 the Revenue Assistant passed

an order dismissing the petition under Section 85 of the Delhi Land Reforms Act (DLRA); the original co-owner Jai Prakash had died during the pendency of the petition. This not having been brought to the notice of the Court, the Revenue Assistant accordingly dismissed the petition.

An appeal was preferred against the order of the Revenue Assistant. This appeal was taken up by the Deputy Commissioner who vide his order dated 14.10.2013 remanded the matter back to the Revenue Assistant directing him to issue notice to the legal representatives of the deceased Jai Prakash and after giving them an opportunity of being heard to decide the case afresh.

Respondent No. 2 was aggrieved by this order. He filed an appeal against the order of the Collector before the Financial Commissioner. The Financial Commissioner vide his order dated 06.01.2015 was of the view that it was the duty of Smt. Prakasho (Respondent No.1 therein) to bring on record the legal representatives of deceased Jai Prakash and she having failed to do so within the prescribed time, the right to sue the deceased defendant stood abated. The order of the Collector was set aside by the Financial Commissioner. The Financial Commissioner vide this order had thereafter remanded the matter back to the Collector with directions to decide the appeal on merits after giving an opportunity of being heard to all the concerned parties.

The parties agree that since the matter is now pending before the Collector the matter be disposed of by the Collector on merits but that part of the order passed by the Collector that the right to sue the

deceased defendant stood abated is set aside.

The petitioner will be at liberty to move an appropriate application before the Collector seeking setting aside of abatement, if any, as the plea of the petitioner before this Court is that the proceedings had not abated as Jai Prakash had died on 09.06.2011 and by that time the property already stood sold and transferred to respondents no. 5 and (which was way back in the year 1965) which has now in turn been sold to Hitesh Chhatwal and M/s Teesta Buildcon Pvt Ltd who are sought to be impleaded by way of a separate application but in view of the order passed today that may not be necessary. Petitioner is at liberty to bring these facts to the notice of the learned Collector.

Petition disposed of in above terms.

Order dasti under signatures of Court Master.

C.M. No.6289/2015, 26360/2015, C.M. No.15678/2015, C.M. No.1567/2016, C.M. No.22700/2016, C.M. No.22701/2016

In view of the above orders, all applications have become infructuous and disposed of accordingly.

INDERMEET KAUR, J

JULY 14, 2016

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