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

+ W.P.(C) 9322/2014

BALBIR SINGH & ORS Petitioners

Through Mr.S.S.Pawar, Advocate.

versus

GOVT. OF NCT OF DELHI & ORS Respondents

Through Mr.Santosh Kumar Tripathi, ASC
with Mr. Rizwan, Advocate.

CORAM:

HON'BLE MS. JUSTICE INDERMEET KAUR

ORDER

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01.09.2016

Petitioner is aggrieved by the fact that the order passed by the Settlement Officer on 02.7.2009 has not been implemented. The order of the Settlement Officer dated 02.7.2009 is a part of the record.

Attention has been drawn by the learned counsel for the petitioner to that order. In this order, it has been stated that the farm house of the applicant situated in Khasra numbers (as mentioned in the said order) is entitled to be declared as Kayami and a necessary amendment to this effect in the consolidation scheme/record be made as per the rules. Submission is that in spite of this order having been ensued in favour of the petitioner since July, 2009, the same has not been implemented.

Counter affidavit has been filed by the respondent. The submission of the respondent is that this order was admittedly passed

by the Settlement Officer on 02.7.2009 and there is no hindrance in the implementation of the said order but necessary provisions of Rule 6(1)(C) of the Delhi Holding Rules, 1959 have to be complied with. Rule 6(1)(C) of the Delhi Holding Rules, 1959 reads herein as under:

“(i) An individual benefitting from a declaration of Kayami shall contribute to the provisions of facilities for common purpose.

(ii) This contribution shall either be in the form of land surrendered by him or a financial contribution.

(iii) To determine the extent of land and individual has, both this personal holdings and his share in the family holding may be taken into account.

(iv) Where the individual has land available for surrender up to one and half times, he shall surrender the same.”

Contention of the respondent is that sub-clause (iv) of Rule 6(1)(C) is applicable to the case of the petitioner and where the individual has land available for surrender up to one and half times, he shall surrender the same. Submission being that the petitioner has land more than one hundred bighas in his name and unless and until he surrenders one and half times of the land available in his name this order cannot be implemented. This submission has been noted. It is also noted that this order could not be implemented for the reason that this provision of Section 6(1)(C) of the said Rules had admittedly not been complied with.

Learned counsel for the petitioner candidly admits that Rule 6(1)(C) is not the subject matter of challenge before this writ Court. This Court also notes that after the order dated 02.7.2009 was passed,

the petitioners were called by the Settlement Officer on 04.5.2010 for implementation of the said order and the copy of the notice informing the petitioners about the next date of 04.5.2010 is a part of the of the record. The petitioner in fact appeared before the Settlement Officer on 11.5.2010 and it was brought to his notice that the aforementioned condition be complied with. Submission in this counter affidavit is that this order is a direction contained in Rule 6(1)(C) and has deliberately and intentionally not been complied with by the petitioner.

The submission of the respondent has force. At the cost of repetition, it is noted that the Rule 6(1)(C) of the Delhi Holding Rules, 1959 is not the subject of challenge before this Court. Rule 6(1)(C) (as noted supra) clearly stipulates that if the individual has land available for surrender up to one and half times, he shall surrender the same before his land is declared as Kayami meaning thereby that the order of the Settlement Officer dated 02.7.2009 can be implemented only once this condition as contained in Section 6(1)(C) of the said Rules is complied with. There is also no dispute to the fact that the petitioner has land for surrender.

This Court is not inclined to entertain this petition. It is dismissed.

INDERMEET KAUR, J

SEPTEMBER 01, 2016

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