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

\+ W.P.(C) 11530/2015 & C.M. No.30518/2015

GINDORI

..... Petitioner

Through Mr. Sunil Chauhan, Adv.

versus

FINANCIAL COMMISSIONER AND ORS.

..... Respondents

Through Mr. Devesh Singh, ASC for R-1 To R-3.

CORAM:
HON'BLE MS. JUSTICE INDERMEET KAUR

<u>O R D E R</u>

% 02.09.2016

The petitioner is aggrieved by the fact that a purported order dated 06.03.1984 was passed qua his land i.e. in khasra No. 5/13/2 in village Paprawat, Najafgarh wherein as per the order dated 06.03.1984, there was certain land which was in excess with the petitioner and accordingly this land had to be passed on to the Gaon Sabha. This order dated 06.03.1984 is not traceable. In fact a query had been put to the respondent on this count, he has come back with instructions that this record is not traceable. Learned counsel for the petitioner submits that no such order dated 06.03.1984 was passed; even otherwise, he was never heard. His second limb of the argument is that even presuming that an order was passed by the Consolidation Officer, no land in excess, if any, could have been withdrawn from the petitioner as the proceedings before the Consolidation Officer have become functus officio. To support this submission he has placed reliance upon a judgment reported as 25 (1984) DLT 20 *Ram Nath Vs. Financial Commissioner*.

Per contra, learned counsel for the respondent submits that the judgment of the Division Bench of this Court reported in LPA 1734/2006 *Leo Puri Vs. Consolidation Officer and Others* delivered on 30.09.2008 clearly states that if a correction is required to be made in revenue record, it would not amount to a review of the order of the Consolidation Officer and as such a correction is wholly permitted.

Be that as it may, since the record is not traceable and the consistent contention of the petitioner is that no such order dated 06.03.1984 was passed, this Court is of the view that it would be expedient and in the interest of justice, if the matter is remanded back to the Consolidation Officer which shall, after giving a hearing to the petitioner (oral and documentary), pass an order on its merits. In this view of the matter, the order passed by the Financial Commissioner dated 21.08.2015 which had endorsed the order dated 06.03.1984 is set aside. The aspect as to whether the Consolidation Officer had become functus officio or not in view of the submissions and counter submissions made by the parties and the respective judgments relied upon by the parties shall also be considered by the Consolidation Officer.

No further orders are called for on this petition. It is disposed of.

Parties to appear before the Consolidation Officer on 26.09.2016 and the Consolidation Officer shall endeavour to dispose of the petition expeditiously.

INDERMEET KAUR, J

SEPTEMBER 02, 2016
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