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

\+ W.P.(C) 3044/2012

ARJUN DEV SAINI

..... Petitioner

Through Mr.B.S.Maan, Advocate.

versus

GAON SABHA KANJHAWLA & ANR

..... Respondent

Through Mr.Tarun Kumar Panwar for Mr.Ramesh Duggal, Standing Counsel for GNCTD.

CORAM:
HON'BLE MS. JUSTICE INDERMEET KAUR

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

% **10.07.2017**

Petitioner is aggrieved by the order passed by the Financial Commissioner dated 24.01.2012 who had endorsed the order passed by the Deputy Commissioner dated 30.3.2007 which in turn had reaffirmed the order passed by the Revenue Assistant on 06.5.2005.

Record shows that the petitioner claims himself to be in cultivator and actual physical possession of land measuring 1 bigha falling in Khasra No.32/4 in the revenue estate of Village Kanjhawala. It is stated to be adjacent to Khasra Nos.32/8/1 (3-2) and 32/8/2 (3-12) of which the petitioner is also in possession. This petition is confined only to land measuring 1 bigha in Khasra No.32/4. Repeated contention of the petitioner is that he is in cultivatory possession of the land. He filed a petition under Section

85 of the Delhi Land Reforms Act before the Revenue Assistant. The Revenue Assistant was of the view that since the petitioner had failed to produce any documents to show his possession qua the suit land for a period of more than three years on the date of filing of the petition and the document placed on record by him which was a hand written record (P-5) issued by the Patwari for the period 1975-76 wherein the father of the petitioner has been allegedly shown to be in possession of 1 bigha of land forming part of Khasra No.32/4 and except this document there being no other document with the petitioner; that petition of the petitioner had been dismissed. The Revenue Assistant was of the view that a close scrutiny of the written document (P-5) revealed that the same is not signed/counter signed by the other competent revenue officers and it had also not been mentioned as to whether any notice was given to the Goan Sabha prior to the issuance of the said document. This order additionally records that the Patwari had produced the revenue record maintained by him and perusal of which revealed that Consolidation of Holdings in the village commenced on 14.11.1996 and as per the scheme objections were invited for the land in Khasra No.32/4 (comprising of 3 bighs and 3 biswas). As per the record maintained by the Halka Patwari this land was distributed amongst various person (5 persons) names of whom find mention in the order passed by the Revenue Assistant. Even before this Court it has been reiterated that those persons are in cultivatory possession of the land which had been allotted to them in the consolidation proceedings.

This order passed by the Revenue Assistant had been endorsed by the Deputy Commissioner on 30.3.2007 and the Financial Commissioner vide the impugned order dated 23.01.2012 had again reaffirmed this decision. In the second appeal filed before the Financial Commissioner, the Financial Commissioner had inter alia noted as follows:

"....The appellant miserably failed to produce the Khasra Girdwaris for a period of three years immediately prior to the filing of the application for Bhumidari. It is one thing to claim in the appeal petition that he has been in possession of the suit land for the last many years and quite another thing to substantiate the averment by production of documentary evidence in the form of the relevant revenue records. The lower appellate court did the right thing by pointing this out. The order of the RA/SDM is a details and speaking order and unexceptionable in every respect. Perusal of the lower court record indicates that the petitioner was given every opportunity at both levels to adduce any evidence that he preferred. Not having taken the opportunity he cannot now claim protection behind the principle of natural justice. The appeal petition deserves dismissal and it is so ordered. The impugned orders are upheld."

This Court is of the view that these orders which are fact finding inquiries given by the fact finding courts are not liable to be interfered with. No case is made out by the petitioner.

At this stage, learned counsel for the petitioner points out that he may be granted one opportunity to file an affidavit along with documents which would substantiate his case. A specific query has been put to the learned counsel for the petitioner on this score. His submission is that what is available with him is again P-5 which may be reconsidered by the Department. This Court is of the view that this document already having been considered by the fact finding courts i.e. by the Revenue Assistant, Deputy Commissioner and again by the Financial Commissioner. This Court is not inclined to pass any order to again prolong and elongate the proceedings. Reliance by the learned counsel for the petitioner on the judgment delivered in WP(C) 9556-61/2003 dated 26.4.2004 is misplaced. Facts of that case appear to be distinct; no consolidation proceedings had been noted in that order.

This petition is without any merit. Dismissed.

INDERMEET KAUR, J

JULY 10, 2017
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