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

+ W.P.(C) 4650/2018 & CM Nos.17949-17950/2018

SHWETA AGARWAL AND ANR

..... Petitioners

Through: Mr.Sudhir Nandrajog, Sr. Adv. with
Mr.Vinay Prakash Singh, Adv.

versus

GOVERNMENT OF NCT OF DELHI AND ANR..... Respondents

Through: Ms.Hetu Arora Sethi, Adv.

CORAM:

HON'BLE MS. JUSTICE REKHA PALLI

ORDER

% **02.05.2018**

Vide the present petition, the petitioners impugn order dated 11.04.2018 whereby, while acting under Section 81 of the Delhi Land Reforms Act, the SDM/Revenue Assistant has directed demolition of the existing structures on the petitioners' land in Mustail No.58, Killa Nos. 21/2 Min(0-07), 21/1 Min (0-06), 22/1 Min (1-01), 22/2 Min (3-02) situated in the Revenue Estate of Village Jonapur, New Delhi.

The impugned order records that, the petitioners were served with notices dated 13.11.2017 and 24.03.2018 in terms of LR 48, directing them to appear before the SDM/Revenue Assistant on 06.12.2017 and 11.04.2018 respectively. The impugned order also shows that, while the petitioners were represented by Shri Narender Sharma, Advocate on 06.12.2017, no reply was filed on their behalf on that day. It further records that a conditional order dated 20.12.2017 was issued by the SDM/Revenue Assistant directing the petitioners to convert back the suit land to agricultural use within a

period of three months, the compliance of which conditional order was sought by 11.04.2018. However, the impugned order records, none appeared for the petitioners on 11.04.2018, when the matter was taken up for hearing.

Learned senior counsel for the petitioners submits that the impugned order has been passed without any notice being served on the petitioners or their respective husbands, from whom both the petitioners have purchased the suit land in the year 2013 vide registered sale deeds.

Learned senior counsel for the petitioners submits that the impugned order has not only been passed without following principles of natural justice, but is even otherwise wholly without jurisdiction. He submits that in view of the notification dated 10.05.2013 issued by the Ministry of Urban Development, the revenue authorities did not have any jurisdiction to deal with the land in question as the said land falls in the 'low density residential plots' and was no longer agricultural land and therefore, no order under Section 81 of Delhi Land Reforms Act could be passed in respect thereof.

After some arguments, learned senior counsel for the petitioners, on instructions, states that the petitioners are willing to avail the alternate remedy under Section 64 of the Delhi Land Revenue Act by filing an appeal before the Deputy Commissioner. He, however, prays that the Deputy Commissioner be directed to consider the petitioners' appeal in an expeditious manner and also prays that in view of the jurisdictional issue raised by the petitioners

as also the fact that the record *prima facie* shows that the notices were not served on the petitioners, the respondents may be directed to maintain status quo in respect of the property till the matter is taken up for hearing by the concerned Deputy Commissioner.

Ms.Hetu Arora Sethi, Advocate, who appears on advance notice, for the respondents, does not oppose the aforesaid limited prayer made by learned senior counsel for the petitioners.

Having considered the submissions of the learned counsels for the parties, I am of the view that the issues raised in the petition, need to be decided expeditiously. Accordingly, while granting leave to the petitioners to file any statutory appeal, the Deputy Commissioner is directed to decide the same expeditiously and preferably within a period of 9 months. It is further directed that till the appeal is taken up for preliminary hearing before the Deputy Commissioner, the parties will maintain status quo, whereafter, it will be for the concerned Deputy Commissioner to consider the grant or non-grant of status quo.

The writ petition and pending applications are disposed of in the aforementioned terms. Needless to say that, in case, the petitioners are still aggrieved by the decision of the Deputy Commissioner, it will be open for them to take legal recourse as permissible under law.

DASTI.

REKHA PALLI, J

MAY 02, 2018

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