

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

Date of Order: September 25, 2018

+ **W.P.(C) 10082/2018 & CMs 39311-13/2018**

SMT. MEENAKSHI AGGARWAL AND ANR. Petitioners

Through: Mr. Varun Goswami, Mr. Rajesh
Singh and Mr. Sahil Agarwal,
Advocates

versus

GAON SABHA AND ANR. Respondents

Through: Ms. Niharika, Advocate for Mr.
Anupam Srivastava, ASC

CORAM:

HON'BLE MR. JUSTICE SUNIL GAUR

ORDER
(ORAL)

1. Impugned order of 31st August, 2018 rejects petitioner's revision petition against conditional order (*Annexure J-colly.*) passed on 4th July, 2018 under Section 81 of *The Delhi Land Reforms Act, 1954* (hereinafter referred to as '*the DLR Act*'). Prior to passing of conditional order (*Annexure J-colly.*), a Notice of 24th January, 2018 (*Annexure F-colly.*) under Section 81 of *the DLR Act* was served upon petitioners.
2. Learned counsel for petitioners submits that in response to abovesaid Notice, petitioners had appeared before the concerned Revenue Assistant on 2nd July, 2018 and had sought time to inspect the file and to have copy of the *Patwari's* report and to file reply. It is pointed out that

in the revision petition (*Annexure-L*), the grievance made is that the concerned Revenue Assistant had not acceded to petitioners' request to file reply and had straightaway passed the conditional order (*Annexure-J colly.*). Aggrieved by conditional order (*Annexure-J colly.*), petitioner had preferred a revision petition (*Annexure-L*) wherein it was specifically urged that opportunity to file reply after inspection of file was not granted to petitioners. Impugned order does not take notice of aforesaid plea.

3. Learned counsel for petitioners submits that the aforesaid plea was raised before the Revisional Court and petitioners' revision petition has been illegally dismissed under erroneous impression that petitioners have right to agitate on merits before the concerned SDM or Deputy Commissioner.

4. Against an order passed under Section 81 of *the DLR Act*, the remedy is not of appeal, but is by way of revision by virtue of Section 187 of *the DLR Act*. After passing of conditional order (*Annexure-J colly.*), the right of the parties stands determined and so, it cannot be said that petitioners have the right to raise the plea of violation of principles of natural justice before the concerned Revenue Assistant.

5. During the course of hearing, it was pointed out by petitioners' counsel that the subject land stood urbanized and to submit so, attention of this Court has been drawn to Notification of 16th May, 2017 (*Annexure-B*) issued by Department of Urban Development of Govt. of NCT of Delhi. A bare perusal of the aforesaid Notification (*Annexure-B*) reveals that the subject land is located in the village Zindpur and stood urbanized on 16th May, 2017. Since this plea was not raised before the

Financial Commissioner or the Revenue Assistant concerned, therefore, it is not being gone into.

6. Impugned order does not take notice of the apparent violation of principles of natural justice of petitioners being denied the right to file reply to Notice under Section 81 of *the DLR Act* issued on 24th January, 2010 (*Annexure F-colly.*), therefore, impugned order as well as conditional order (*Annexure J-colly.*) under Section 81 of *the DLR Act* are hereby set aside, with permission to petitioners to file reply to Notice of 24th January, 2018 (*Annexure F-colly.*). Needless to say, petitioners shall be within their right to urge the plea of subject land being urbanized, before the concerned Revenue Assistant, who shall duly consider it. Petitioners' counsel submits that the reply to Notice of 24th January, 2018 (*Annexure F-colly.*) would be filed within four weeks from today. Thereafter, the concerned Revenue Assistant shall expeditiously deal with the Notice under Section 81 of *the DLR Act* of 24th January, 2018 (*Annexure F-colly.*), in accordance with the law.

7. The concerned Revenue Assistant be apprised of this order forthwith, to ensure its compliance.

8. With aforesaid directions, this petition and the applications are accordingly disposed of.

Dasti.

(SUNIL GAUR)
JUDGE

SEPTEMBER 25, 2018

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