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

% *Date of Decision*: 28.08.2019

\+ W.P.(C) 10072/2016

NISHA KHURANA ..... Petitioner

Through: Mr.Atul Nigam and Mr.Randhir Kumar, Advocates

Versus

THE FINANCIAL COMMISSIONER, GOVERNMENT OF NCT OF DELHI & ORS. ..... Respondents

Through: Ms.Sapna Chauhan, Adv. for DDA
Mr.Anil Tomar, Adv. for R1/GNCTD
Mr.Naushad Ahmed Khan, ASC (Civil) with Mr.Zahid Hanief and Mr.Manish Chauhan, Advs. for GNCTD.

CORAM:
HON'BLE MR. JUSTICE JAYANT NATH

JAYANT NATH, J. (Oral)

1. This writ petition is filed by the petitioner seeking a writ of certiorari/mandamus or any other appropriate writ to quash the order dated 16.10.2015 passed by the Financial Commissioner. Other connected reliefs are also sought including directing the respondents No.l to 4 to forbear themselves from interfering in any manner with the petitioner's right, title and interest and peaceful occupation and possession of land bearing khasra no. 13/4 min (4-0) at Village Goela, Delhi and also directing the respondent No.5 to expedite the process of regularization in terms of the Zonal Development Plan.

2. The case of the petitioner is that he is the owner/bhumidar of land bearing khasra no. 13/4 min (4-0) situated in the Village Goela Khurd. In the year 1989, construction was initiated on land belonging to Khurana family for building a school through Khurana Education Society. Thereafter, on 15/08/1989, a school by the name of Shanti Gyan Niketan was inaugurated. The Khasra Girdwari records of 1990-91 also showed that the school had been constructed on the khasras belonging to the Khurana Family. A recognition letter was received from the Directorate of Education, Delhi in respect of the school on 30.03.1994. It is further pleaded that the school was upgraded/expanded from 1994-95 to 1997-98. An ad hoc affiliation was also granted by CBSE on 14/11/1996. House tax assessment order in respect of the school was also passed in the year 2000.

3. On 05.03.2004 Halqa Patwari sent a report in respect of the land use stating it to be contrary to Section 81 of the Delhi Land Reforms Act (hereinafter referred to as 'the DLR Act'). A show cause notice was issued under Section 81 of the DLR Act on 24.04.2004. On 14.05.2008 a restraint order was passed under Section 81 of the DLR Act. On 19.06.2008 a conditional order was passed stating that the land be converted back for agricultural purpose within 3 months from the date of the order failing which the land would be vested in the Gaon Sabha and the petitioner thereafter would be ejected therefrom.

4. On 17.07.2012, a final order was passed stating that the land is being used for non-agricultural purposes and that the land stands vested in Gaon Sabha and the bhumidars stand ejected from the said land. An appeal was also filed before the Deputy Commissioner which was dismissed on 14.09.2012. Thereafter, a revision petition was filed before the Financial

Commissioner. The same has also been dismissed on 16.10.2015.

5. I have heard learned counsel for the parties.

6. Learned counsel for the petitioner has challenged the impugned order on two counts. *Firstly,* that the impugned proceedings initiated under section 81 of the DLR Act were barred by limitation. *Secondly,* that pursuant to the passing of the Zonal plan by DDA, the land in question ceased to be an "agricultural land" under Sec. 3(13) of the DLR Act.

7. The facts in the present writ petition are similar to the factual matrix in W.P. (C) 10068/2016 titled as ***Santosh Khurana v. The Financial Commissioner, Government of NCT of Delhi*** wherein on an identical prayer, the writ was disposed of vide order dated 28.08.2019. While disposing of the said writ petition, on the first issue, this court held that the proceeding initiated by the respondent in 2004 was clearly barred by limitation. On the second issue, this court held that DLR Act ceased to apply to the land in question and the proceedings initiated under section 81 of the DLR Act have become illegal in view of the Zonal Development Plan having passed for the area in question.

8. In view of the aforesaid, the order dated 17.07.2012 passed by the Court of Revenue Assistant (Najafgarh) and subsequent orders in appeal/revision are set aside.

9. The present petition is also disposed of in terms of the aforesaid order passed in W.P.(C) 10068/2016 dated 28.08.2019. All pending applications, if any, also stand disposed of.

JAYANT NATH, J.

AUGUST 28, 2019/rb/v
corrected & released on 27.09.2019