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

% **Date of decision: 30th November, 2021**

\+ W.P.(C) 6365/2019, CM APPL. 27099/2019

SH. CHANDER BHAN (DECEASED) THROUGH: HIS LRS, AND ORS. ..... Petitioners

Through: Mr. Sunil Chauhan, Adv.

versus

FINANCIAL COMMISSIONER AND ORS. ..... Respondents

Through: Mr. V.P. Rana, Adv.

CORAM:
HON'BLE MR. JUSTICE YASHWANT VARMA

YASHWANT VARMA, J. (ORAL)

1. Heard learned counsel for parties.

2. The present petition raises a challenge to an order of 04th April, 2019 passed by the Financial Commissioner. The Financial Commissioner has principally upheld the claim of the respondents here who sought eviction of the petitioners in light of the provisions contained in Section 84 of the Delhi Land Reforms Act, 1954[1]. The proceedings are stated to have been commenced consequent to a suit instituted by the respondents for the eviction of the petitioners. That claim referred to the cause of action as having arisen on 27th April, 1998 when according to the respondents, the petitioners here forcibly entered into and encroached upon the suit property. The plaint in paragraph 8 recites that the petitioners here forcibly entered the premises between 14th April, 1988 and 27th April, 1988.

[1] the DLR Act

3. The petitioners here have set up a case that their predecessors came to be inducted in possession by virtue of an oral sale which was pronounced in their favor by the predecessors of the respondents in 1970. They also placed reliance on certain lists which were drawn in the course of consolidation to contend that their occupation of the suit property was duly recognised in the course of those proceedings.

4. It becomes pertinent to note that the Financial Commissioner while passing the order impugned has taken into consideration the fact that the right of the petitioners over the suit property or even the factum of they being in possession was never recognised by the competent authorities during the course of consolidation. The Financial Commissioner has also debunked the case set up on the basis of an oral sale which is stated to have been made in favor of the petitioners by the predecessors of the respondents in 1970. The Financial Commissioner has additionally also rejected the defense which was set forth by the petitioner based upon a GPA which is stated to have been executed in 1988.

5. Insofar as the issue of the power of attorney is concerned, the Financial Commissioner has rested its decision on the principles enunciated by the Supreme Court in **Suraj Lamp Industries Vs. State of Haryana**[2] to hold that an unregistered GPA cannot be recognised as being an instrument which could have validly conferred or created any title or interest in immovable property. Similarly, the case set up on the basis of an oral sale is noticed only to be rejected since undisputedly no such alleged arrangement relating to immoveable property can be countenanced in law.

[2] 2012 (1) SCC 656

6. Having perused the record, the Court notes that the petitioners do not rest their case on any part of the final consolidation scheme which may have recognised their proprietary rights over the premises in question. The writ petition also does not place on the record any final order of allotment that may have been made in favor of the petitioners upon the final consolidation scheme being published. The lists which are relied upon by the petitioners and which have been placed on the record have not been established to have been drawn after or as a consequence to the promulgation of the final consolidation scheme. The Financial Commissioner has lastly taken into consideration the fact that no "Khasra-Girdawari" of any year was placed by the petitioners which may have established or recognised they being in possession of the premises in 1970. The Financial Commissioner has also found the case set up by the petitioner as being wholly suspect and unworthy of acceptance bearing in mind that they claimed to have been inducted in possession in 1970 and then placed reliance upon a power of attorney allegedly executed 17 years thereafter.

7. The contention of the learned counsel that the suit brought under Section 84 was time barred proceeds on the assumption that the petitioners are liable to be recognised as being in possession of the premises since 1970. However and as noticed hereinbefore, neither credible evidence was lead in this regard nor was it established on the basis of the documentary material which constituted the record before the Financial Commissioner which may have established the aforesaid assertion.

8. On an overall conspectus of the aforesaid, the Court comes to conclude that the Financial Commissioner has arrived at a decision upon due consideration and appreciation of the facts and evidence which was laid

and had rightly come to conclude that the order of Deputy Commissioner of 24th October, 2014 was liable to be set aside. The findings of fact recorded by the Financial Commissioner are not established to suffer from any patent error nor can they be said to be perverse so as to warrant interference by this Court under Article 226 of the Constitution.

9. Accordingly, the writ petition is dismissed. All pending applications shall consequently stand disposed of.

YASHWANT VARMA, J.

NOVEMBER 30, 2021/*neha*