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

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+ W.P.(C) 3502/2022 & CM APPL. 10324/2022

RAJEEV SHAH (DECEASED) THROUGH LR MS.

GAYATRI SHAH

..... Petitioner

Through: Mr. Rajesh Yadav, Sr. Adv.
with Ms. Ruchira V. Arora,
Advocate (M:9810322797)

versus

**GOVERNMENT OF NCT OF DELHI
& ORS.**

..... Respondents

Through: Mr. Anupam Srivastava, ASC
for GNCTD with Mr. Dhairya
Gupta, Ms. Sarita Pandey, Mr.
Vasuh Misra, Mr. Ujjwal
Malhotra, Advocates for R-1
and 2 (M:9811128170)

CORAM:

HON'BLE MS. JUSTICE MINI PUSHKARNA

J U D G M E N T

10.04.2023

MINI PUSHKARNA, J.

1. The present writ petition has been filed by the petitioner raising the plea that the proceeding in *appeal bearing no. 70/2010, GS Rajokri Vs Rajiv Shah (deceased) through LRs*, filed by the respondent no. 2 Gaon Sabha, Rajokri under Section 185 of the Delhi Land Reforms Act, 1954 (DLR Act) against the order/judgment dated 26.05.2010 passed by the learned Sub Divisional Magistrate (SDM)/Revenue Assistant (RA), cannot continue in view of declaration of Village Rajokri, wherein the land in question is situated,

as a Low Density Residential Area (LDRA) in urban extension.

2. Proceedings under Section 81 of the DLR Act were initiated in respect of the land of the petitioner and respondent no. 3, bearing khasra nos. 549/1 Min (0-9), 548 Min (0-3/2), 553 Min (3-0) and 558/1 Min (0-12), situated in Village Rajokri, Tehsil Vasant Vihar, New Delhi. The proceedings were initiated on the basis of report of the Halka Patwari dated 02.01.2009, wherein it was reported that a boundary wall is being raised and construction material is lying in huge quantity. Thus, notice dated 23.01.2009 was issued by the learned SDM/RA to late Sh. Rajiv Shah, father of the petitioner and respondent no. 3, stating that the agricultural land was being used for non-agricultural purposes by way of constructing boundary wall.

3. Subsequently, on the basis of reply dated 17.05.2010 filed by late Sh. Rajiv Shah, the learned SDM/RA dropped the proceedings under Section 81 of the DLR Act. An appeal under Section 185 of the DLR Act, along with an application for condonation of delay in filing the appeal, was filed by the respondent no. 2-Gaon Sabha before the Learned Deputy Commissioner, South West, Kapashera, New Delhi on 13.10.2010, which was subsequently transferred to the Court of Additional Deputy Magistrate (ADM), Jam Nagar House, New Delhi.

4. During the pendency of the appeal, father of the petitioner expired. Subsequently, upon the death of her mother, petitioner herein filed an application for substitution under Order 22 Rule 4 of Code of Civil Procedure, 1908 (CPC) on the basis of will dated 09.08.2016 in her favour, which was allowed by the learned Deputy Commissioner vide order dated 09.11.2017.

5. By way of the present writ petition, the petitioner has challenged the pendency of the appeal filed by respondent no. 2 before the Learned ADM, New Delhi.

6. On behalf of the petitioner, it is contended that the proceedings pending in the appeal before learned ADM are bad in law for want of jurisdiction, in view of the fact that the DLR Act does not apply to the land in question any more after the notification dated 18.06.2013 issued by the Ministry of Urban Development (Delhi Division) making modifications in Master Plan for Delhi-2021 (MPD 2021), in exercise of powers conferred by Sub-section 2 of Section 11A of The Delhi Development Act, 1957 (DD Act). It is submitted that as per said notification, villages containing existing farm houses cluster were notified as LDRA, which includes Village Rajokri. In view of the said notification Village Rajokri has become an urban village. Land use of the petitioner's land has become residential and that it is not an agricultural land anymore.

7. It is further the case on behalf of the petitioner that there is neither any conditional order nor any ejectment order against the petitioner, rather the proceedings were dropped by the Ld. SDM. Thus, it is submitted that since the proceedings under Section 81 of the DLR Act are yet to attain finality and orders of eviction and vesting have not been made, the case of the petitioner will fall in "Case 2", as detailed in the case of *Sanvik Engineers Private India Limited & Another Vs Government of NCT of Delhi & Anr*¹. It is

¹ 2022 SCC OnLine Del 360

submitted that “²Case 2” as detailed in *Sanvik Engineers (Supra)* pertains to the cases where proceedings have merely reached the stage of initiation or only a conditional order has been passed, wherein it has been held that no useful purpose would be served in continuing with these proceedings.

8. In support of his submissions, learned counsel for the petitioner has relied upon the judgment in the case of *Mohinder Singh (dead) through LRs and Another Vs Narain Singh and Others*². By relying upon the said judgment, it is submitted that Supreme Court has held that once land is urbanised, provisions of DLR Act cease to apply and consequently, the proceeding pending under the DLR Act becomes *non-est* and loses its legal significance. It is submitted that the proceedings under the DLR Act would include original as well as Appellate proceedings. Thus, it is contended that the appeal pending before the Learned ADM ought to be dropped.

9. On the other hand, on behalf of respondent no. 2, it is submitted that the present case falls under “Case 4”, as detailed in the case of *Sanvik Engineers (supra)*. It is submitted that “Case 4” of the said judgment deals with a situation where a notification for urbanisation comes to be issued during the pendency of an appeal or revision against a final order at the behest of the land holder or Gaon Sabha. In the said judgment, it has been held that the right to institute or continue pending appeals against final orders passed under Section 81 would not stand extinguished, merely because the land had become urbanised. Thus, it is contended on behalf of the respondents that the

² 2023 SCC OnLine SC 261

appeal will continue before the learned ADM, however, the Gaon Sabha would be substituted by the Union Government as the appellant.

10. In support of its submissions, learned counsel for the respondents has relied upon judgment in the case of ***Jeevaashram Vs Government of NCT of Delhi and Others***³. By relying upon the said judgment, it is contended that an appeal which is pending at the time of urbanisation of an area in question, would continue.

11. I have heard learned counsels for the parties and perused the documents.

12. In the present case, the proceedings under Section 81 DLR Act, 1954 were dropped by the learned SDM/RA vide judgment/order dated 26.05.2010. The said judgment was challenged by the respondent no. 2 Gaon Sabha, Rajokri on 13.10.2010 before the Learned Deputy Commissioner/Collector (South-west), Kapashera, which was thereafter transferred to the Court of learned ADM. Subsequently, by notification dated 18.06.2013, Village Rajokri, where the land in question is situated, was declared as a Low Density Residential Area (LDRA) in urban extension. The aforesaid appeal is still pending before the learned ADM, the pendency of which, is subject matter of challenge before this Court.

13. It is no longer res-integra that once an area has been declared as LDRA, it ceases to be a rural area and becomes part of urban area. The area in question i.e. Village Rajokri was declared as LDRA by

³ MANU/DE/0142/2023

way of Gazette notification dated 18.06.2013 issued by the Ministry of Urban Development (Delhi Division). Thus, after declaration of the area as LDRA, the land can no longer be said to be for agricultural purposes. The purpose of DLR Act is to protect agricultural use of the land. However, when an area itself is declared as Low Density Residential Area, non-agricultural use of land stands recognised by the Master Plan itself.

14. After modification in MPD, 2021 under Section 11A of DD Act, vide notification dated 18.06.2013, there is no manner of doubt that village Rajokri is an “urban village”. This Court in the case of *M/s. Shri Neelpadmaya Consumer Products Pvt. Ltd. Vs Sh. Satyabir @ Satbir And Ors.*⁴, has held that a notification for urbanisation need not only be through a notification under Section 507 of The Delhi Municipal Corporation Act, 1957 (DMC Act). It was held that once a notification is issued applying a zonal plan, issued pursuant to the Master Plan showing the subject lands as covered under the zonal plan issued by the DDA, in such a situation, the lands cease to be lands covered under the DLR Act, as the issuance of notification in the official gazette results in the lands becoming part of the Delhi land. Thus, it was held as follows:-

“20. There is yet another angle by which the issue can be looked upon and decided. This is in terms of Section 3(13) of the Act which defines the land which is the subject matter of the Act. Besides the definition of ‘land’ contained in Section 3(13) of the Act, I would also have to refer to the definition of ‘Delhi town’ and ‘New Delhi town’ which are contained in sub-Sections (5) and (15) of same Section

⁴ 2016 SCC Online Del 761

3. Reference will also have to be drawn to Section 1 of the Act which provides for the scope of operation of the Act. These Sections 1, 3(5), 3(13) and 3(15) of the Act read as under : -

“Section 1. Short title, extent and commencement. - (1)

This Act may be called the Delhi Land Reforms Act, 1954.

(2) It extends to the whole of the Union territory of Delhi, but shall not apply to-

(a). [the areas which are or may before the first day of November, 1956 be] included in a Municipality or a Notified Area under the provisions of the Punjab Municipal Act, 1911, or a Cantonment under the provisions of the Cantonments Act, 1924.

(b) [areas] included in any estate owned by the Central Government or any local authority, and

(c) areas held and occupied for public purpose or a work of public utility and declared as such by the Chief Commissioner or acquired under the Land Acquisition Act, 1894, or any other enactment other than this Act, relating to acquisition of land for a public purpose.

(3) It shall come into force at once.

(4) The declaration of the Chief Commissioner under clause (c) of sub-section (2) shall be conclusive evidence that the land is held and occupied for a public purpose or a work of public utility.

Section 3(5) *[‘Delhi town’ means the areas which immediately before the establishment of the Municipal Corporation of Delhi were included in the limits of Delhi Municipality, Civil Station Notified Areas, West Delhi Municipality and the Fort Notified Area);]*

Section 3(13) *“land” except in Sections 23 and 24, means land held or occupied for purposes connected with agriculture, horticulture or animal husbandary including pisciculture and poultry farming and includes-*

(a) buildings appurtenant thereto,

(b) village abadis,

(c) grove-lands,

(d) lands for village pasture or land covered by water and

used for growing singharas and other produce or land in the bid of a river and used for casual or occasional cultivation, but does not include-land occupied by buildings in belts of areas adjacent to Delhi town and New Delhi town, which the Chief Commissioner may by a notification in the Official Gazette declare as an acquisition thereto;

Section 3(15) *“New Delhi town” means the area included in the limits of the New Delhi Municipality and Delhi Cantonment.”*

21. *A reading of the later part of sub-Section (13) of Section 3 of the Act shows that the land which is the subject matter of the Act would no longer be the subject matter of the Act if there is issued a notification in the Official Gazette that the land which was the subject matter of the Act is an acquisition to the Delhi town and New Delhi town. Delhi town and New Delhi town as the definitions thereof show that the areas which are included in a municipality or a cantonment area or New Delhi Municipal Council area etc. are excluded from the scope of the Act. Putting it in another words, areas which would fall under the municipalities i.e urbanized areas or areas to be developed as an urban area were excluded from the purview of the Act. This also becomes clear from the reading of Section 1 of the Act which excluded the operation of the Act when it came into force to areas which fell within any municipality or notified area under the Punjab Municipal Act, 1911 or the Cantonments Act, 1924 i.e those areas which were not rural and fell in urbanized area. A conjoint reading of provisions of Sections 1, 3(5), 3(13) and 3(15) of the Act shows that the object of law was that on a notification being issued in the Official Gazette of an area which was falling under the Act thereafter as falling within the Delhi town and New Delhi town on such an action of such lands falling in Delhi town and New Delhi town these lands cease to be the subject matter of ‘land’ which was the subject matter of the Act on account of the said land being land within the meaning of the*

definition of the land in Section 3(13) of the Act. It is also required to be noted that the expression municipality with its cognate and agnate expressions has to be understood as being taken as urban areas because a municipality is for an urban area and it has to be taken as a generic term for urban area in terms of the object of the aforesaid provisions of the Act. Thus if by a notification in an Official Gazette an area ceases to be a rural land as it is urbanized for urban development, then such lands are no longer rural lands falling under Section 3(13) of the Act.

22(i). The issue is that whether there exists a notification issued in the Official Gazette declaring the subject land as falling within Delhi town and New Delhi town? On behalf of the defendants, it is argued that the land which is the subject matter of the Act can be urbanized only if notification is issued under Section 507 of the Delhi Municipal Corporation Act, 1957 and which admittedly has not been issued so far as the said village and suit lands are concerned and hence it is argued that once the land is not urbanized because a notification is not issued under Section 507 of the Delhi Municipal Corporation Act, the land in question continues to be the subject matter of the land falling under Section 3(13) of the Act and hence the land governed by the Act and hence the Agreements to Sell dated 25.9.2006 are hit by the provision of Section 33 of the Act.

22(ii) In response to the argument urged on behalf of the defendants, counsel for the plaintiff has argued that it is not necessary that notification which is talked of in the later part of Section 3(13) of the Act has necessarily to be a notification only under Section 507 of the Delhi Municipal Corporation Act, 1951 inasmuch as even a notification issued by the Central Government under Section 11 of the Delhi Development Act, 1957 declaring an area to be the subject matter of a master plan or a zonal plan of the Delhi Development Authority, has the effect that such a land with respect to which a master plan or a zonal plan or an area plan is prepared (and which

will entitle thereafter the DDA to treat such area as development area for being developed as per the master or zonal plan etc) shows that by such notification lands no longer will remain the subject matter of the Act inasmuch as such lands are part of urbanization. Reliance is also placed in this regard upon paras 19 and 24 of the judgment of a learned Single Judge of this Court in the case of Gur Pratap Singh v. Union of India 2004 (111) DLT 25, and by which paras, the learned Single Judge has held that once a particular area is a subject matter of the notification under the Delhi Development Act by notifying the master plan or zonal plan then such land becomes urbanized and hence is out of the scope of application of the Act and Section 3(13) of the Act. These paras 19 and 24 read as under : -

“19. This matter can be looked into from another aspect. The notification amending the Master Plan clearly provides that the land in question can be used for the purpose of a motel. Once this option is available and is exercised by owner of the land, the land is no more being used for agricultural purposes. Thus, once the land is elected to be used by the owner for a motel, permission for which has been granted under the amendment to the Master Plan, it no more remains agricultural land under the meaning of Section 3(13) of the Land Reforms Act. For this reason also, there would be no occasion for obtaining any permission. The Land Reforms Act is an enactment for protecting the agricultural use of the land. Once this land itself ceased to be agricultural, there is, really speaking, no question of application of the Land Reforms Act. Needless to say, this is on account of the fact that there is permissible non-agricultural use of a motel in pursuance to the notification of 1995.

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24. Section 53(3) of the DDA Act makes it clear that once a permission for development under this Act has been obtained, the same shall not be deemed to be unlawful by reason of the fact that such permission, approval or

sanction is required under any other law for which permission has not been obtained. Thus, in view of the mandate by the DDA and accepted by the MCD, there would be overriding effect of this mandate, even if the Land Reforms Act was to apply.” (underlining added)

23. I agree with the argument which is urged on behalf of the plaintiff that a notification for urbanization need not only be through a notification under Section 507 of the Delhi Municipal Corporation Act as the later part of Section 3(13) of the Act does not in any way require that there is only one manner of notification viz only under Section 507 of the Delhi Municipal Corporation Act. This later part of Section 3(13) of the Act does not talk of a notification only under Section 507 of the Delhi Municipal Corporation Act. The requirement of this later part of Section 3(13) of the Act is only that a notification is issued in the Official Gazette to make the land as part of the Delhi town and New Delhi town. Once a notification is issued applying a zonal plan issued pursuant to the master plan showing that subject lands are covered under the zonal plan issued by the DDA, in such a situation, it has to be held that the lands cease to be the lands covered under the Act because of issuance of a notification in the Official Gazette results in the lands becoming part of the Delhi town. Additional reasoning on this aspect can be understood from the object and the language found in Section 1 and Sections 3(5) and 3(15) of the Act and which Sections show that once an area falls within a town area and an area ceases to be an agricultural land because it has to be developed as part of the development of the Delhi town or New Delhi town, then such an area no longer remains an agricultural area for being covered under the expression land as defined in Section 3(13) of the Act. With humility, I am in complete agreement with the observations made by the learned Single Judge of this Court in the case of Guru Pratap Singh (supra) and which arrives at the same conclusion that once the land ceases to be agricultural, the land ceases to be the subject matter of the

Act.

24. I may note that the plaintiff has proved the zonal plan Ex.PW 5/1 and the notification Letter dated 4.6.2010 as Ex.PW 5/2 and these documents clearly show that the entire village Goela Khurd and wherein the suit land is located is the subject matter of the zonal plan issued under the Delhi Development Authority. As per the aforesaid discussion, as also the ratio of the learned Single Judge in Gur Pratap Singh (supra), once the land is the subject matter of a zonal plan issued under Section 11 of the Delhi Development Act, the land is beyond the purview of the Act. It is also therefore immaterial as to what is the deposition made in this regard by the witness PW-5, inasmuch as, the arguments urged on behalf of the defendant that PW-5 has stated in cross-examination dated 1.2.2013 that it is not known as to whether khasra numbers of village Goela Khurd fall or do not fall in the "dotted or the recreational area" inasmuch as Ex.PW 5/1 and Ex.PW 5/2 show that the entire area of village Goela Khurd is a part of the zonal plan. As long as the village Goela Khurd is the subject matter of the zonal plan Ex.P5/1 that it is sufficient for the entire area of village Goela Khurd to be urbanized land, hence the subject land is situated and become an area which is notified for urbanization resulting in taking the same out of rural areas which are the subject matter of the Act. Also, in my opinion, once a particular area falls within the zonal development plan issued by the DDA under Section 11 of the Delhi Development Act, thereafter calling the same by any description, whether rural or otherwise cannot take away the effect that the said land is very much part of notification issued for development of the area which is the subject matter of the zonal plan and hence the subject matter of issuance of a notification falling in the later part of Section 3(13) of the Act taking such land as outside the operation of the Act."

15. In view of the aforesaid, it is clear that once land is subject

matter of zonal plan issued under Section 11 of DD Act, it is beyond the purview of the DLR Act. After the notification dated 18.06.2013, Village Rajokri became an urban village, and therefore, the DLR Act ceased to apply to the land in question.

16. Thus, position is clear that Village Rajokri became part of urban land with effect from the notification dated 18.06.2013 declaring the land as LDRA. The effect of the said notification dated 18.06.2013 is that DLR Act ceases to apply to the lands situated in Village Rajokri, where the land, subject matter of this writ petition is situated.

17. Both the parties have relied upon the judgment in the case of *Sanvik Engineers (supra)* in support of their submissions. The petitioner has relied upon the said judgment to contend that its case falls in “Case 2” as detailed in the said judgment. On that basis it has been submitted on behalf of the petitioner that since the proceedings under Section 81 of the DLR Act were at a nascent stage and no conditional/final order had been passed, rather the SDM had dropped the proceeding by order dated 26.05.2010, therefore, after declaration of the area as LDRA, the appeal before the learned ADM cannot continue.

18. On the other hand, the respondent has contended that the present case falls in “Case 4” of the *Sanvik Engineers* judgment, since in the present case the appeal in question had been filed by the Gaon Sabha on 13.10.2010 and the same was pending at the time of issuance of notification dated 18.06.2013 declaring the area as LDRA.

19. As far as the judgment in the case of *Sanvik Engineers (supra)* is concerned, in the said judgment, this Court has classified the

various situations under the following broad heads:-

“Case No. 1. Where proceedings have not been initiated and notifications under the DMC/DDA Acts intervene.

Case No. 2. Where although proceedings have been initiated or a conditional order made, notifications come to be issued before a final order directing ejectment and vesting is passed.

Case No. 3. Where the notifications come to be issued after a final order of ejectment and vesting comes to be made.

Case No. 4. Where a notification comes to be issued during the pendency of an appeal or revision against a final order at the behest of the landholder or Gaon Sabha.”

20. With respect to “Case 2” as aforesaid, it has been held in the said judgment that where proceedings have merely reached the stage of initiation or a conditional order has been passed, there would remain no legitimate or useful purpose to continue those proceedings. With respect to “Case 4”, it has been held that the mere fact that a notification for urbanisation has come to be issued between passing of a final order and the institution of the appeal or where an appeal is pending on the date of issuance of a notification, such appeal cannot be said to abate and the right of a land holder or a Gram Sabha to institute or pursue an appeal which may be pending on the date of the issuance of the notification cannot be said to be foreclosed or be lost. Thus, as per the said judgment of *Sanvik Engineers (supra)*, appeal would continue in such cases and would not be dropped even though in the meanwhile, the area in question may have become urbanised.

21. The aforesaid judgment of *Sanvik Engineers (supra)* has been

followed by this Court in its various judgments. Thus, if this Court were to follow the aforesaid judgment in the case of *Sanvik Engineers (supra)*, then the appeal in the present case pending before Ld. ADM would be allowed to be continued, even though subsequently, the area in question has come to be declared as LDRA.

22. However, in a recent judgment in the case of *Mohinder Singh (dead) through LRS and Another Vs Narain Singh and Others*⁵, Supreme Court has held in very categorical terms that once an area becomes urbanised, the provisions of DLR Act cease to apply and the proceedings pending under the said Act become *non-est* and lose its legal significance. Thus, it has been held as follows:-

“36. After harmonizing the provisions of the Act, 1954 and Act 1957, we are of the considered view that once a notification has been published in exercise of power under Section 507(a) of the Act, 1957, the provisions of the Act, 1954 cease to apply. In sequel thereto, the proceedings pending under the Act, 1954 become non est and loses its legal significance.

37. We approve the view expressed by the Division Bench of the High Court in Smt. Indu Khorana (supra) which was later followed in the judgment impugned by the Division Bench of the High Court dated 22nd November, 2012.”

23. Thus, the Supreme Court has laid down in categorical terms that all pending proceedings under the DLR Act become *non-est* and cannot continue after urbanisation of land in question. Though attention of Supreme Court in the case of *Mohinder Singh (supra)* was not brought to the judgment in the case of *Sanvik Engineers (supra)*

⁵ 2023 SCC Online SC 261

where classification of cases has been made under 4 heads, however, when the Supreme Court has not made any such classification and has given a clear and categorical direction that all proceedings under the DLR Act would become *non-est* after urbanisation of an area, this Court is bound to follow the judgment of the Supreme Court, as being the law of the land.

24. Article 141 of the Constitution of India indicates in clear terms that law declared by the Supreme Court shall be binding on all Courts within the territory of India. Thus, in the case of ***Director of Settlements, A.P. and Others Vs M.R. Apparao & Another***⁶, it has been held as follows:-

“7. So far as the first question is concerned, Article 141 of the Constitution unequivocally indicates that the law declared by the Supreme Court shall be binding on all courts within the territory of India. The aforesaid Article empowers the Supreme Court to declare the law. It is, therefore, an essential function of the Court to interpret a legislation. The statements of the Court on matters other than law like facts may have no binding force as the facts of two cases may not be similar. But what is binding is the ratio of the decision and not any finding of facts. It is the principle found out upon a reading of a judgment as a whole, in the light of the questions before the Court that forms the ratio and not any particular word or sentence. To determine whether a decision has “declared law” it cannot be said to be a law when a point is disposed of on concession and what is binding is the principle underlying a decision. A judgment of the Court has to be read in the context of questions which arose for consideration in the case in which the judgment was delivered. An “obiter dictum” as distinguished from a ratio decidendi is an

⁶ (2002) 4 SCC 638: 2002 SCC Online SC 375

observation by the Court on a legal question suggested in a case before it but not arising in such manner as to require a decision. Such an obiter may not have a binding precedent as the observation was unnecessary for the decision pronounced, but even though an obiter may not have a binding effect as a precedent, but it cannot be denied that it is of considerable weight. The law which will be binding under Article 141 would, therefore, extend to all observations of points raised and decided by the Court in a given case. So far as constitutional matters are concerned, it is a practice of the Court not to make any pronouncement on points not directly raised for its decision. **The decision in a judgment of the Supreme Court cannot be assailed on the ground that certain aspects were not considered or the relevant provisions were not brought to the notice of the Court** (see Ballabhadas Mathurdas Lakhani v. Municipal Committee, Malkapur [(1970) 2 SCC 267 : AIR 1970 SC 1002] and AIR 1973 SC 794 [(sic)]). **When the Supreme Court decides a principle it would be the duty of the High Court or a subordinate court to follow the decision of the Supreme Court.**

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A judgment of the High Court which refuses to follow the decision and directions of the Supreme Court or seeks to revive a decision of the High Court which had been set aside by the Supreme Court is a nullity. (See Narinder Singh v. Surjit Singh [(1984) 2 SCC 402] and Kausalya Devi Bogra v. Land Acquisition Officer [(1984) 2 SCC 324] .) We have to answer the first question bearing in mind the aforesaid guiding principles. We may refer to some of the decisions cited by Mr Rao in elaborating his arguments contending that the judgment of this Court dated 6-2-1986 [State of A.P. v. Rajah of Venkatagiri, (2002) 4 SCC 660] cannot be held to be a law declared by the Court within the ambit of Article 141 of the Constitution. Mr Rao relied upon the judgment of this

Court in the case of M.S.M. Sharma v. Sri Krishna Sinha [AIR 1959 SC 395 : 1959 Supp (1) SCR 806] wherein the power and privilege of the State Legislature and the fundamental right of freedom of speech and expression including the freedom of the press was the subject-matter of consideration. In the aforesaid judgment it has been observed by the Court that the decision in Gunupati Keshavram Reddy v. Nafisul Hasan [(1952) 1 SCC 343 : AIR 1954 SC 536 : 1954 Cri LJ 1704] relied upon by the counsel for the petitioner which entirely proceeded on a concession of the counsel cannot be regarded as a considered opinion on the subject. There is no dispute with the aforesaid proposition of law."

(emphasis supplied)

25. Therefore, considering the law of the land as declared by Supreme Court in the case of *Mohinder Singh (supra)*, the inevitable conclusion is that the proceedings pending before the learned ADM under the DLR Act after urbanisation of the area in question cannot continue. The Supreme Court has held clearly that all proceedings under the DLR Act lose their legal significance after urbanisation of the area in question. The Supreme Court has made no segregation as regards the proceedings under the DLR Act being at initial stages or where final order under the DLR has already come to be passed at the time of urbanisation of the land. Thus, as per the judgment of the Supreme Court, all proceedings emanating from the DLR Act would be liable to be quashed after urbanisation, as the DLR Act ceases to apply. The Supreme Court nowhere differentiates between the original proceedings or the Appellate proceedings that may be pending under the DLR Act before the Revenue Authorities at the time of declaration of an area as urbanised.

26. Though attention of the Supreme Court was not brought to the judgment in the case of *Sanvik Engineers (supra)*, however, in view of the clear finding of the Supreme Court, the said judgment pertaining to the finding that pending appeals under the DLR Act will continue despite the area being declared as urbanised, is deemed to have been overruled.

27. In view of the aforesaid detailed discussion, the present petition is allowed. The proceedings pending in appeal bearing no. 70/2010, titled as *GS Rajokri Vs Rajiv shah (deceased) through LRs* before the Court of Learned Additional District Magistrate, District New Delhi, Jam Nagar House under Section 185 of the Delhi Land Reforms Act, 1954, are hereby quashed.

28. However, the parties are at liberty to agitate their claims/ disputes including challenge to the order of SDM/RA, which is subject matter of appeal before the learned ADM, before appropriate forum/ civil Court. It is clarified that all the pleas in law shall remain available to the parties before the appropriate forum.

29. The present petition is disposed of in terms of the aforesaid directions along with the pending application.

**(MINI PUSHKARNA)
JUDGE**

APRIL 10, 2023

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