

\$~25

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

% *Decided on: 21st April, 2023*

+ **W.P.(C) 2846/2021 with CM APPL. 8585/2021**

ASHA BHALLA Petitioner

Through: Mr. Sunil Magon, Advocate
(Ph.9818024374, e-mail:
magonsunil50@gmail.com)

versus

REVENUE ASSISTANT/ SDM & ORS. Respondents

Through: None.

CORAM:

HON'BLE MS. JUSTICE MINI PUSHKARNA

[Physical Hearing/ Hybrid Hearing]

MINI PUSHKARNA, J. (ORAL):

1. The present writ petition has been filed with prayer for quashing the impugned order/ judgment dated 30.01.2021 of the Revenue Assistant/Sub Divisional Magistrate (SDM), Saket passed in Case No.186/RA/1987 in proceedings titled as *G.S. Saidulajaib versus Chuttan*.

2. It is the case on behalf of the petitioner that the petitioner owns Shop No. 4, Saidulajaib, MB Road, Opposite Saket, New Delhi since the year 1976. Proceedings under Section 81 of The Delhi Land Reforms Act, 1954 ('DLR Act') were initiated against the petitioner in the year 1987.

3. Subsequently, by way of impugned judgment, the order of vesting was passed vide order dated 30.01.2021 by learned SDM

ordering that the conditional order dated 21.08.1998 be made absolute and the land comprising Khasra No. 394/ 324/325/ 36 and 395/ 326-327/ 40 situated in the revenue estate of Village Saidulajaib is vested in Gaon Sabha. Orders for ejectment of the petitioner herein were passed.

4. It is not disputed by the parties that Village Saidulajaib was urbanized in the year 2019 i.e. much prior to the order of vesting dated 30.01.2021. Attention of this Court is drawn to the Gazette Notification dated 25.09.2020, wherein it is stated that the Department of Urban Development, Government of NCT of Delhi vide its Notification dated 20.11.2019 has declared the areas of seventy-nine villages, including Saidulajaib, as urban areas. Village Saidulajaib is also mentioned at Serial No. 34 to show that the said area has been urbanized in the Notification dated 25.09.2020.

5. Thus, it is seen that after the urbanization of the land in question, the proceedings under DLR Act could not have continued, as the provisions of DLR Act cease to apply to an area in question, after its urbanization. The contention of the respondent that as per Circular dated 28.11.2019 issued by the Department of Revenue, Government of NCT of Delhi, it is only after delineation of the boundary of the unauthorized colony that it can be said whether or not the provisions of DLR Act would be applicable or not, does not hold water. Once the area in question has been urbanized, as per the settled law, the provisions of the DLR Act cease to apply in the area.

6. Hon'ble Supreme Court in the case of *Mohinder Singh (Dead) Through LRs & Another Vs. Narain Singh and Others*, 2023 SCC

Online SC 261 has not made distinction with respect to any area which is situated within the boundary of the unauthorized colony or cluster of unauthorized colonies as is the contention raised on behalf of the respondent by referring to circular dated 28.11.2019 issued by the Department of Revenue, Government of NCT of Delhi. The Hon'ble Supreme Court has 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.”

7. In view of the aforesaid, the present writ petition is allowed and the order dated 30.01.2021 issued by the Revenue Assistant/ SDM, Saket passed in Case No.186/RA/1987 is hereby quashed.

8. The writ petition is allowed in the aforesaid terms.

MINI PUSHKARNA, J

APRIL 21, 2023

PB