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

% *Decided on: 15th February, 2023*

+ W.P.(C) 3103/2021

DEEPAK

..... Petitioner

Through: Mr. Rajbir Singh and Mr.
Umesh Yadav, Advocates
(M:9717394060, email: thelawco
smos@gmail.com)

versus

A D M LA SOUTH WEST & ORS.

..... Respondents

Through: Mr. Yeeshu Jain, Standing
Counsel with Ms. Jyoti Tyagi,
Ms. Manisha, Advocates for R-
1 (M:9811394417)
Mr. Santosh Kumar Tripathi,
SC/GNCTD with Mr. Arun
Panwar, Mr. Pradyumn Rao,
Mr. Utkarsh Singh, Ms. Mehak
Rankawat, Advocates
(M:9818112250)

CORAM:

HON'BLE MS. JUSTICE MINI PUSHKARNA

[Physical Hearing/ Hybrid Hearing]

MINI PUSHKARNA, J. (ORAL):

1. The present writ petition has been filed with a prayer for direction to the respondents to grant necessary permission to the application made by the petitioner, so that permission/No objection Certificate (NOC) is granted to the petitioner for the purposes of sale of his land.
2. It is the case of the petitioner that he is the joint owner in

possession of 1/4th share of land comprised in Khasra No. 79(7-0), 329 (8-8), 160(8-2), 330 (8-4), 350 (4-4), 526 (4-18), 527 (1-3) and 631 (3-6) total area measuring 45 Bigha 5 Biswas of village Mundhela Khurd, Tehsil Najafgarh, New Delhi. It is submitted that the petitioner is owner in possession of 11 Bigha 6 Biswa and 5 Biswansi of agricultural land comprises in the above stated Khasra Nos.

3. It is submitted that petitioner for his bona fide requirement has entered into an agreement to sell his entire shareholding in the land in question. It is mandatory requirement that before registration of a document of sale of agricultural land, the seller has to obtain necessary permission under the Delhi Land (Restrictions on Transfer) Act, 1972. Under Section 3 of the said Act no land could be transferred which has been acquired by the Central Government under the Land Acquisition Act, 1894. Further under Section 4 of the said Act, no land with respect to which a declaration under Section 6 of the Land Acquisition Act, 1894 has been made and the land has not been withdrawn from acquisition, could be sold except with previous permission of the competent authority.

4. It is the case of the petitioner that under Section 5 of the Delhi Land (Restrictions on Transfer) Act, 1972, the competent authority is bound to either grant the permission or refuse to grant permission but cannot withhold his permission or refusal. Thus, it is submitted that necessary application was made after payment of fee prescribed under the Delhi Land (Restriction on Transfer) Act, 1972 and the Rules framed thereunder on 13.10.2020 to the concerned Sub Registrar IXA Najafgarh, South-West Delhi, vide Application No. 288 for grant of

sanction for registration of the documents.

5. It is submitted that the petitioner on 02.02.2021 obtained the NOC/Status Report dated 29.01.2021 from concerned Sub Registrar IXA Najafgarh, Delhi.

6. By way of the said Status Report/No Objection Certificate dated 29.01.2021, the competent authority ADM (S-W) rejected the permission of sale for the aforesaid land of the petitioner for the reason that the village Mundhela Khurd is under consolidation and that permission cannot be granted under Section 30 of East Punjab Holdings (Consolidation and Prevention of Fragmentation) Act, 1948 (EPH) Act. Further, the case was rejected on the account that the case was pending before the Id. Financial Commissioner in this regard. Thus, the present writ petition has come to be filed on behalf of the petitioner.

7. Ld. Counsel for petitioner at the outset has relied upon the judgment by Coordinate Bench of this Court dated 22.10.2008 in **W.P.(C) 669/2008**, titled as ***Rattan Singh Vs. A.D.M. (LA) South West and Ors.***, wherein for the same village, this Court has already rejected all objections that were taken by the respondents with respect to issuance of NOC for sale of the land in village in question.

8. This court, thus, held as follows:

“In view of the aforesaid statement made by Mr. Vasisht on behalf of his client, which is accepted by the Court and by which the petitioner shall remain bound, I am inclined to reject the objections raised by the respondents for refusing the grant of permission to the petitioner to transfer his aforesaid land. However, in case

there is any other reason for refusal of permission to the petitioner to transfer his lands, in terms of Section 5(3) of the Delhi Lands (Restriction on Transfer) Act, it shall be open to the respondent to refuse the said permission/NOC. Let the respondent reconsider the matter and in case there is no objection in terms of Section 5(3) of the Delhi Lands (Restriction on Transfer) Act, No Objection Certificate/permission to the petitioner be granted within three weeks.”

9. It is submitted by referring to the aforesaid order that similar orders need to be passed in the present petition also.

10. On the other hand, ld. Counsel appearing for the respondents submit that consolidation proceedings are still pending and that a case with regard thereto is pending before the ld. Financial Commissioner. Thus, she submits that any order passed by this Court would have to take into account the consolidation proceedings that are pending with respect to the village in question.

11. I have heard ld. Counsels for the parties.

12. This Court by its judgment dated 22.10.2008 in W.P.(C) 669/2008 has already granted No Objection/permission for sale of land in the same village. Thus, similar objections as taken in the present proceedings were dealt by this Court in the said proceedings and the said objections were rejected. In view thereof, this Court finds no impediment in passing similar directions in the present case also.

13. However, it is seen that consolidation proceedings with respect to land in question are still pending.

14. Besides, proceedings are also pending before the ld. Financial Commissioner with respect to consolidation proceedings.

15. Accordingly, it is directed that the respondents shall reconsider the matter and in case there is no objection in terms of Section 5(3) of the Delhi Lands (Restriction on Transfer) Act, No Objection/permission be granted to the petitioner within four weeks from today.

16. It is made clear that any sale deed executed by the petitioner would be subject to the consolidation proceedings pending with respect to village in question. The transferee shall take the land in question subject to the consolidation proceedings and same shall not affect the rights of any other person under the consolidation proceedings.

17. With the aforesaid directions, the present petition is allowed.

MINI PUSHKARNA, J

FEBRUARY 15, 2023

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