$~31

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

% *Decided on: 19th April, 2023*

\+ W.P.(C) 4930/2023 & CM APPL. 19060/2023

PANKAJ BAJAJ ..... Petitioner

Through: Mr. Sameer with Mr. Vinod Kumar, Mr. Shashank Sharma and Mr. Kartikey Singh, Advocates.
(M): 9811859265

versus

GOVT OF NCT OF DELHI & ORS. ..... Respondents

Through: Ms. Manpreet Kaur with Mr. Rohit, Advocates for respondent no. 2.
(M): 9873288908
Email: manpreet.kaur@neojuris.com

CORAM:
HON'BLE MS. JUSTICE MINI PUSHKARNA
[Physical Hearing/ Hybrid Hearing]

MINI PUSHKARNA, J. (ORAL):

CM APPL. 19060/2023 (Application under Section 151 CPC on behalf of the petitioner seeking exemption from filing certified/original/typed/clear/dim copies of annexures)

1. This is an application under Section 151 CPC on behalf of the petitioner seeking exemption from filing certified/original/typed/clear/dim copies of annexures.

2. Allowed, subject to just exceptions.

3. Application is disposed of.

W.P.(C) 4930/2023

4. The present writ petition has been filed with the prayer for

setting aside the order dated 14.03.2023 passed by the learned Financial Commissioner, with further prayer for affirming the mutation order dated 21.04.2006 passed by the Tehsildar in favour of respondent no. 3.

5. At the outset, learned counsel appearing for the petitioner submits that the impugned order dated 14.03.2023 passed by the learned Financial Commissioner is wholly unjustified. It is submitted that vide the impugned order, the learned Financial Commissioner has upheld the order of the learned ADM cancelling the mutation no. 686/2006 dated 21.04.2006 granted by the Competent Authority in favour of New Friends Colony Cooperative House Building Society, with respect to property bearing no. A-20, New Friends Colony.

6. It is submitted that the impugned order has been passed by relying upon judgment dated 01.07.2013 passed by this Court in *CS (OS) No. 1114/2009*, titled as ***Pankaj Bajaj Vs Meenakshi Sharma & Ors.***

7. It is submitted that the said judgment as relied upon by the learned Financial Commissioner has already been set aside by the Division Bench of this Court vide its judgment dated 09.05.2014 in *RFA (OS) No. 72/2013*, titled as ***Pankaj Bajaj Vs Meenakshi Sharma & Ors.***

8. It is submitted that the very basis of the impugned order, is erroneous, as the judgment relied upon by the learned Financial Commissioner, already stands set aside by the Division Bench of this Court.

9. Learned counsel appears on behalf of respondent no. 2 on

advance notice. She submits that the order passed by the learned Financial Commissioner is justified. She further submits that besides the order in the case of *CS (OS) No. 1114/2009* as relied upon by the learned Financial Commissioner, the impugned order has been passed on other grounds also.

10. This Court has heard the counsels for the parties.

11. This Court has perused the impugned order dated 14.03.2023 passed by the learned Financial Commissioner. This Court has specially perused para no. 12, 13 and 14 of the impugned judgment passed by the learned Financial Commissioner. Perusal of the impugned order of the learned Financial Commissioner shows that the learned Financial Commissioner has relied upon the judgment dated 01.07.2013 passed by this Court in *CS (OS) No. 1114/2009*. The said judgment has already been set aside by this Court by its judgment dated 09.05.2014 in *RFA (OS) No. 72/2013*, which judgment has been attached as Annexure-P12 along with the present writ petition.

12. Considering the fact that the impugned order passed by the learned Financial Commissioner is based upon a judgment, which already stands set aside by this Court, it is deemed appropriate to set aside the impugned order dated 14.03.2023 passed by the learned Financial Commissioner. The matter is remanded back to the learned Financial Commissioner.

13. It is directed that the learned Financial Commissioner shall hear the final arguments in the matter on the date as fixed by the learned Financial Commissioner. Thereafter, learned Financial Commissioner shall proceed to pass the order afresh, on the basis of the submissions

as made by the respective parties.

14. It is further made clear that this Court has not made any observation or given any finding with respect to merits of the case.

15. The documents as placed on record on behalf of the petitioner along with the present writ petition may also be considered by the learned Financial Commissioner at the time of hearing of the matter.

16. The respondents would be at liberty to raise any objections that may be available as per law, to the submissions made on behalf of the petitioner on the basis of the documents that have been filed along with the present writ petition.

17. With the aforesaid directions, the present writ petition is disposed of.

MINI PUSHKARNA, J

APRIL 19th, 2023
c