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

Date of Decision: 19th December 2023

+ **W.P.(C) 6747/2023 & CM APPL. 26394/2023**

RAJ KUMAR DHINGRA

..... Petitioner

Through: Ms. Smita Maan, Mr. Vishal Maan,
Mr. Kartik Dabas and Mr. J.
Tewathia, Advocates.

versus

GOVT OF NCT OF DELHI AND ORS

..... Respondents

Through: Ms. Astha Gupta, Advocate.

HON'BLE MR. JUSTICE ANUP JAIRAM BHAMBHANI

J U D G M E N T

ANUP JAIRAM BHAMBHANI J.

By way of the present petition filed under Article 226 of the Constitution of India, the petitioner has made the following prayers :

“i. Issue a writ, order or direction in the nature of prohibition thereby restraining the Respondent no.1 from proceeding further in the proceedings pending before it U/s 185 of the Delhi Land Reforms Act, 1954, bearing Case no.24/2022 titled as 'Gaon Sabha, Dera Mandi Vs. Prabhat Kumar & Anr.', in respect of petitioner's land comprised in Khasra no. 101/11 (4-16), situated in Village Dera Mandi, New Delhi;

“ii. issue a writ, order or direction in the nature of certiorari thereby quashing/setting aside the above proceedings for being null, non-est and void ab- initio for patent lack of jurisdiction.”

2. Notice on this petition was issued on 19.05.2023.



3. Short counter-affidavit dated 14.12.2023 has been filed on behalf of the respondent No.3 *i.e.* the Gaon Sabha, Dera Mandi.
4. The court has heard Ms. Smita Maan, learned counsel appearing for the petitioner; and Ms. Astha Gupta, learned counsel appearing for the respondents.

BRIEF FACTS

5. Briefly, the relevant factual narrative in the present case is as follows :
 - 5.1. The petitioner is the owner in possession of land comprised in Khasra No. 101/11 (4-16) situate in Village : Dera Mandi, New Delhi ad-measuring about 4 *bigha* 16 *biswa* ('subject land') along with another co-owner namely Mr. Prabhat Kumar.
 - 5.2. In 2007, Village : Dera Mandi, New Delhi was urbanised *vide* notification dated 07.02.2007 issued under the Master Plan for Delhi for the year 2021 ('MPD 2021') and the Zonal Development Plan for Zone-J. A copy of notification dated 07.02.2007 is appended as Annexure P-1 to the petition.
 - 5.3. Thereafter, proceedings were initiated in respect of the subject land under section 81 of the Delhi Land Reforms Act, 1954 ('DLR Act') *vide* case bearing No.7388/321/RA/NEH/2013/1090-94 titled '*Gaon Sabha, Dera Mandi vs. Prabhat Kumar & Anr.*', alleging that the land was being put by the petitioner and the co-owner to non-agricultural use.
 - 5.4. Initially, a restraint order dated 24.10.2013 was issued against the petitioner and the co-owner under section 81 of the DLR Act; and further, a conditional order dated 01.08.2014 was issued directing



- the parties to put the land back to agricultural use within 03 months.
- 5.5. Subsequently however, on the basis of a report submitted by the *halqa patwari*, *vide* order dated 20.01.2016 the proceedings under section 81 DLR Act were dropped.
- 5.6. Thereafter, respondent No.3 *i.e.* the Gaon Sabha filed an application under Appendix VI Rule 14 of the Delhi Land Revenue Rules 1954 ('DLR Rules') for setting-aside order dated 20.01.2016; which application was however dismissed by the Revenue Assistant ('RA')/Sub-Divisional Magistrate ('SDM'), Mehrauli, as not maintainable *vide* order dated 20.11.2021, a copy whereof is appended as Annexure P-3 to the petition.
- 5.7. During the pendency of the aforementioned proceedings, Village : Dera Mandi was 'urbanised' *vide* notification dated 20.11.2019 issued under Section 507(a) of the Delhi Municipal Corporation Act 1957 ('DMC Act'), a copy of which notification is appended as Annexure P-2 to the petition.
- 5.8. The Gaon Sabha then filed an appeal under section 185 of the DLR Act *vide* case No.24/2022 titled '*Gaon Sabha, Dera Mandi vs. Prabhat Kumar & Anr.*' before the Deputy Commissioner/Collector, Saket impugning order dated 20.11.2021 passed by the RA/SDM, Mehrauli, in which appeal a reply was filed by the present petitioner. A copy of the appeal and the reply are appended to the petition as Annexure P-4 and Annexure P-5 respectively.



5.9. The appeal is still pending before the Deputy Commissioner/Collector, Saket, New Delhi.

5.10. In the foregoing circumstances that the petitioner has approached this court by way of the present writ petition, impugning the on-going proceedings before the Deputy Commissioner/Collector, Saket on the premise that in view of Village : Dera Mandi having been urbanised as aforesaid, in line with the the judgment of the Supreme Court in *Mohinder Singh (Dead) Through LRs and Another vs. Narain Singh and Others*¹, proceedings under the DLR Act are no longer maintainable since they are rendered *non-est* and of no legal significance.

PETITIONER'S SUBMISSIONS

6. In the above backdrop, Ms. Smita Maan, learned counsel appearing for the petitioner submits as follows :

6.1. That the impugned proceedings before the Deputy Commissioner/Collector, Saket are required to be quashed since even prior to initiation of the proceedings under section 185 of DLR Act, the land in question already stood 'urbanised' by virtue of notification dated 07.02.2007 issued under the MPD 2021 and the Zonal Development Plan for Zone-J; and thereafter also by operation of notification dated 20.11.2019 issued under 507(a) of the DMC Act. It is submitted that consequent thereupon, the provisions of the DLR Act ceased to apply to the subject land, which ceased to be agricultural land.

¹ 2023 SCC OnLine SC 261



- 6.2. That in view of the judgment of the Supreme Court in *Mohinder Singh* (supra), which has held in unambiguous terms that once a notification is issued under section 507(a) of the DMC Act, the provisions of the DLR Act cease to apply, there can be no other inference except that the proceedings pending before the Deputy Commissioner/Collector, Saket in case No.24/2022 titled '*Gaon Sabha, Dera Mandi vs. Prabhat Kumar & Anr.*' under section 185 of the DLR Act are rendered *non-est* and lose all legal significance.
- 6.3. That the petitioner's case is also supported by the verdicts of Division Benches and Co-ordinate Benches of this court in *Indu Khorana vs. Gram Sabha & Ors.*²; *Narain Singh & Ors. vs. Financial Commissioner & Ors.*³; *Gur Pratap Singh vs. Union Of India*⁴; *Shri Neelpadmaya Consumer Products Pvt. Ltd. vs. Satyabir*⁵; *Sanraj Farms Pvt. Ltd. vs. Charan Singh*⁶; and *Sushma Kapoor vs. Govt of NCT of Delhi*⁷ which have consistently taken the same view that has now received the final imprimatur of the Supreme Court in *Mohinder Singh* (supra), namely that post-urbanisation of land all proceedings under the DLR Act are rendered *non-est* and lose their legal significance.

² 2010 SCC OnLine Del 1334

³ LPA No. 591/2008

⁴ 2004(78) DRJ 621

⁵ 2016 SCC OnLine Del 761

⁶ 2019 SCC OnLine Del 10741

⁷ 2021 SCC OnLine Del 5170



6.4. That furthermore, a closer reading of section 150(3) of the DLR Act would show that even the proposition that by issuance of a notification under section 507(a) of the DMC Act only the Gaon Sabha stands dissolved, and that proceedings by or against the Gaon Sabha can be continued by or against the Union of India, is also no longer tenable, since in *Mohinder Singh* (supra) the Supreme Court has categorically held that the DLR Act itself ceases to apply; in which case section 150, which is part of the DLR Act, would also not be applicable.

RESPONDENT'S SUBMISSIONS

7. On the other hand, Ms. Aastha Gupta, learned counsel appearing for the respondents has placed the following arguments :

7.1. That though the factum of notification dated 20.11.2019 cannot be denied, the respondents' contention in this behalf, as stated in para 5 of their short affidavit dated 14.12.2023 is :

"5. It is submitted that the land in question falls in Village Dera Mandi which has been urbanized vide Notification dated 20.11.2019. In pursuant to the said Notification and as per Notification dated 25.09.2020 issued by Ministry of Housing and Urban Affairs Government of India, the Goan Sabha Land has been handed over to Delhi Development Authority."

7.2. Ms. Gupta submit that once the land is handed-over to the DDA, section 150(3)(d) of the DLR Act would become applicable, which reads as under :

"(d) all suits, prosecutions and other legal proceedings instituted or which might have been instituted by or against the Gaon Sabha may be continued or instituted by or against the Union of India".



- 7.3. That in view of the above, though the respondents no longer have jurisdiction over the subject land in light of the verdict by the Supreme Court in *Mohinder Singh* (supra), the jurisdiction over the land stands transferred to the Union of India *i.e.* the Central Government, which is therefore a necessary party to the present proceedings.
- 7.4. That in light of section 150 of the DLR Act, the pending proceedings under section 185 of the DLR Act cannot be quashed.

DISCUSSION & CONCLUSIONS

8. Upon a conspectus of the averments contained in the petition and in the short affidavit filed on behalf of the respondents; and after considering the submissions made by learned counsel for the parties, the following inferences clearly arise :
- 8.1. It is the admitted position that *vide* notification dated 20.11.2019 issued under section 507(a) of the DMC Act, Village : Dera Mandi stands urbanised.
- 8.2. In *Mohinder Singh* (supra), the Supreme Court has categorically 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.**”*

(emphasis supplied)



- 8.3. The Supreme Court verdict in *Mohinder Singh* (supra) therefore mandates that the *moment a notification is published* under section 507(a) of the DMC Act, the provisions of the DLR Act cease to apply. Since the Deputy Commissioner derives power to entertain and decide the proceedings from section 185 of the DLR Act, the only sequitur is that once the DLR Act itself ceases to apply, the Deputy Commissioner is no longer left with any power to proceed with the appeal *i.e.* case bearing No.24/2022 titled '*Gaon Sabha, Dera Mandi vs. Prabhat Kumar & Anr.*' under section 185 of the DLR Act, which proceedings are rendered *non-est*.
9. However it is also necessary to address the contention raised on behalf of the respondents, namely that though the Deputy Commissioner loses jurisdiction in the matter, that jurisdiction stands transferred to the Union of India, *i.e.* to the Central Government acting through the DDA.
10. To evaluate the above contention, it is necessary to take a closer look at section 150 of the DLR Act.
11. Section 150 of the DLR Act deals with the establishment and incorporation of the Gaon Sabha and of the Gaon Sabha Area. The provision envisages the establishment of a body corporate known as the Gaon Sabha having perpetual succession, in which the Gaon Sabha Area vests. As a body corporate, the Gaon Sabha is *inter-alia* vested with the capacity of suing and being sued in its corporate name; of acquiring, holding, administering and transferring property, both movable and immovable and of entering into contracts⁸.

⁸ Section 150(2) DLR Act



12. Section 150(3) deals with the situation when the *whole* Gaon Sabha Area ceases to be included in ‘rural areas’ as defined in the DMC Act, 1957⁹ by issuance of a notification issued under section 507(a) of that statute. In such circumstances, section 150(3) says, that the Gaon Sabha constituted for that area shall stand dissolved; and that upon such dissolution, all properties, interests, duties, obligations, liabilities and contracts relating to the Gaon Sabha would instead vest in the Central Government¹⁰.
13. It is in the above context that section 150(3)(d) says that: “*all suits, prosecutions and other legal proceedings instituted by or against the Gaon Sabha may be continued or instituted by or against the Union of India*”.
14. While section 150 of the DLR Act addresses a situation where the *Gaon Sabha stands dissolved* by virtue of a notification under section 507 of the DMC Act, the verdict of the Supreme Court in *Mohinder Singh* (supra) goes beyond what is contemplated in section 150, to hold 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***”¹¹. (emphasis supplied)
15. It is important to note that the Supreme Court does not qualify the foregoing precept in any manner; *nor does it hold that only certain provisions of the DLR Act would cease to apply* but other provisions

⁹ Section 2(52) DMC Act 1957

¹⁰ Section 150(3)(a) and (b) of the DLR Act

¹¹ *Mohinder Singh* (supra) - cf. para 36



would continue to be applicable. The mandate of the Supreme Court is clear – *the DLR Act would cease to be applicable in its entirety.*

16. In the opinion of this court therefore, it cannot be argued that once the DLR Act itself ceases to apply, section 150 thereof would nevertheless remain applicable.
17. That apart, in *Mohinder Singh* (supra), the Supreme Court further holds that once a notification is published under section 507(a) of the DMC Act and the provisions of the DLR cease to apply – as a sequel – *the pending proceedings* under the DLR Act become *non-est* and lose their legal significance. Again therefore, once the pending proceedings under the DLR Act become *non-est*, nothing remains for the Union of India, *i.e.* to say the Central Government, to pursue through or by way of such *non-est* proceedings.
18. In the above circumstances, in the present case, no other inference arises except to hold that the proceedings in the appeal bearing case No.24/2022 titled *Gaon Sabha, Dera Mandi vs. Prabhat Kumar & Anr.* pending before the Deputy Commissioner/Collector, cannot continue since the proceedings have been rendered *non-est*.
19. To be sure, it may be clarified, that *if* there is cause for any other governmental agency to institute or prosecute any proceedings against the petitioner for breach of any law applicable to the subject land, such proceedings would *not* be barred *only* because the DLR Act ceases to apply. Such agency would be at liberty to initiate and pursue its legal recourse, as may be available, before the appropriate forum, in accordance with law. Merely because the DLR Act ceases to apply, it



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does not mean that the land is *free of all laws and regulations* and is beyond the remit of *all authorities*.

20. In the above view of the matter, the petition is allowed; and the proceedings in case No.24/2022 titled ***Gaon Sabha, Dera Mandi vs. Prabhat Kumar & Anr.*** pending before the Deputy Commissioner/Collector stand quashed.
21. The petition is disposed-of accordingly.
22. Pending applications, if any, also stand disposed-of.

ANUP JAIRAM BHAMBHANI, J

DECEMBER 19, 2023

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(Released on : 04th January, 2024)