



\$~56

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

% *Decided on: 22nd May, 2023*

+ W.P.(C) 6987/2023 & CM APPLs. 27187/2023, 27188/2023

**RADIANCE FINCAP P LTD THROUGH ITS AUTHORIZED
REPRESENTATIVE SHRI MUKESH RANA** Petitioner

Through: Mr. A.K. Sen and Mr. Deepak
Bidhuri, Advs.
(M:9811057478, ashissen@yahoo.com)

versus

**GOVT OF NCT OF DELHI DEPARTMENT OF REVENUE
THROUGH DIVISIONAL COMMISSIONER & ANR.**

..... Respondents

Through: Ms. Shobhana Takiar, Standing
Counsel for DDA with Mr.
Kuljeet Singh, Adv.
(M:9810962950, Email: shobhana-takiar@yahoo.co.in)
Mr. Tushar Sannu, GNCTD
with Mr. Devvrat Tiwari and
Mr. Abhishek Singh,
Advs. (M:9911991166,
Email: adv.tusharsannu@gmail.com)

CORAM:

HON'BLE MS. JUSTICE MINI PUSHKARNA

[Physical Hearing/ Hybrid Hearing]

MINI PUSHKARNA, J. (ORAL):

**CM APPL. 27188/2023 (Application for exemption from filing
originals/certified copies of annexures)**

1. Allowed, subject to just exceptions.
2. Application is disposed of.



W.P.(C) 6987/2023 & CM APPL. 27187/2023 (Application under Section 151 CPC for stay)

3. The present writ petition has been filed challenging the order dated 11.04.2023 passed by the learned Financial Commissioner, Delhi in Case No.117/2017, titled as “*Radiance Fincap (P) Ltd. Vs. Gaon Sabha Rangpuri*” whereby the Revision petition of the petitioner under Section 187 of the Delhi Land Revenue Act, 1957 (DLR Act) has been dismissed.

4. It is the case on behalf of the petitioner that at the time of issuance of the notice as well as passing of the conditional order by the respondent dated 23.03.2007, the same was issued to one Radions Kin Camp (P) Ltd. instead of Radiance Fincap (P) Ltd., which is the actual name of the petitioner herein. Thus, it is submitted that notice was issued to a wrong entity and therefore, conditional order under Section 81 of the DLR Act was passed ex-parte.

5. Subsequently, final order dated 28.05.2008 was passed by the Revenue Assistant (Vasant Vihar), whereby the conditional order dated 23.03.2007 was confirmed. It is submitted that both the orders i.e., conditional order dated 23.03.2007 as well as final order dated 28.05.2008 were ex-parte, since, no proper notice was ever given to the petitioner.

6. It is further submitted that it is only upon application of the petitioner before the Revenue Assistant that the correct name of the petitioner was reflected in the final order dated 28.05.2008 under Section 81 of the DLR Act passed by the Revenue Assistant (Vasant Vihar). It is further submitted that the appeal filed by the petitioner



before the Deputy Commissioner was dismissed, whereupon a revision petition was filed before the learned Financial Commissioner.

7. It is submitted that the matter was listed before the learned Financial Commissioner for final arguments. However, the Learned Financial Commissioner disposed of the revision petition of the petitioner on the ground that since the area in question, i.e., village Rangpuri, where the subject land is situated, has been urbanised vide notification dated 20.11.2019 under Section 507 of the Delhi Municipal Corporation Act, 1957, all the proceedings under the DLR Act have become non-est.

8. Thus, the present writ petition has been filed on behalf of the petitioner. It is submitted that the revision petition of the petitioner has been disposed of without giving any finding on the merits of the case, as the conditional order as well as the final order passed by the learned Sub-Divisional Magistrate (SDM) were illegal and had been passed without granting any hearing to the petitioner.

9. On the other hand, learned counsels appearing for respondents on advance notice submit that though the name of the petitioner was written incorrectly, however, the notice was served on the correct address. Therefore, it is submitted that it cannot be said that there was no notice to the petitioner herein. It is further submitted that proceedings under Section 81 of the DLR Act were initiated against the petitioner, as the petitioner was guilty of unauthorized construction on agricultural land.

10. It is further submitted that the order passed by the Learned Financial Commissioner dated 11.04.2023 is correct and legal, in view



of the judgment of the Hon'ble Supreme Court in the case of *Mohinder Singh (Dead) through LRs and Another Vs. Narain Singh & Ors.*, 2023 SCC OnLine SC 261.

11. I have heard learned counsels for the parties and with consent of the parties, I propose to dispose of the present petition.

12. The Learned Financial Commissioner vide order dated 11.04.2023 has disposed of the Revision Petition on the ground that after the urbanisation of the land in question, the proceedings under the DLR Act will not continue. As far as the order passed by the Learned Financial Commissioner is concerned, no fault can be found with the order of the Learned Financial Commissioner. The law in this regard is very clear that once an area has been urbanised, the provisions of the DLR Act cease to apply to the said area. Therefore, any proceedings pending under the DLR Act after urbanisation of an area in question, cannot continue.

13. Hon'ble Supreme Court in the case of *Mohinder Singh (Dead) through LRs (Supra)*, 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. "

14. Considering the aforesaid, it is clear that the proceedings under the DLR Act before the Learned Financial Commissioner could not have continued.



15. At the same time, the rights of the petitioner cannot be completely shut merely on the ground that the area in question has been urbanised and that the proceedings under DLR Act cannot continue. The valuable rights of the petitioner have to be safeguarded. Therefore, all the submissions which the petitioners had raised in the proceedings under the DLR Act before the Learned Financial Commissioner, can be taken up by the petitioner in a Civil Court of competent jurisdiction, after initiating appropriate civil proceedings.

16. Even though the DLR Act will not apply to the area in question and the proceedings under the DLR Act will not continue, however, the petitioner in order to protect its rights will have the liberty to approach Civil Court in appropriate proceedings.

17. In view of the aforesaid, it is directed that the petitioner herein will have the liberty to approach Civil Court in appropriate proceedings for the purposes of adjudication of its rights qua the land in question.

18. Learned counsel for the petitioner at this stage submits that he may be granted time of at least three months, since the matter being an old matter it would take him some time to collate the documents in order to initiate proceedings before a Civil Court.

19. Considering the aforesaid submissions made on behalf of the petitioner herein, it is directed that the petitioner would be at liberty to initiate appropriate proceedings before a Civil Court for adjudication of its rights, within three months from today. It is further directed that for a period of three months, status quo shall be maintained by both the parties with respect to the possession and construction of the land



in question.

20. It is further clarified that this Court has not expressed any opinion on the merits of the case. All the rights and contentions of the parties are left open to be raised before a Civil Court to be decided by the said Court after proper proceedings.

21. With the aforesaid directions, the present writ petition is disposed of along with pending application.

MINI PUSHKARNA, J

MAY 22, 2023

sc



नित्यमेव जयते