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

% *Decided on: 25th May, 2023*

+ **W.P.(C) 7159/2023 & CM APPLs.27906/2023, 27907/2023**

SMT. SHWETA AGARWAL & ANR. Petitioners
Through: Mr. Dhananjay Mehlawat, Mr.
Rohan Yadav, Advocates
(M:9911006159)

versus

GOVERNMENT OF-NCT OF DELHI, & ANR.

..... Respondents
Through: Mr. Prashant Manchanda, ASC
for GNCTD with Ms. Nancy
Shah, Ms. Khushboo Tomar,
Ms. Jasleen Kaur, Advocates
for R-1 & 2 (M:9971879203)

CORAM:

HON'BLE MS. JUSTICE MINI PUSHKARNA

[Physical Hearing/ Hybrid Hearing]

MINI PUSHKARNA, J. (ORAL):

CM APPL. 27907/2023 (under Section 151 CPC for exemption)

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

W.P.(C) 7159/2023 & CM APPL.27906/2023

3. The present writ petition has been filed with prayer for quashing the proceedings pending before the Deputy Commissioner (South) filed on behalf of respondent No.2, Gaon Sabha Jonapur, challenging the order/judgment dated 27.10.2014 passed by the Sub-Divisional Magistrate (SDM)/Revenue Assistant (RA). By the said judgment/order dated 27.10.2014, ld. SDM/RA in the proceedings



under Section 81 of the Delhi Land Reforms Act 1954 (DLR Act) had dropped the proceedings with respect to the land of the petitioners bearing Khasra No. 58/21/2, 22/1 min(0-7), 21/1 min(0-06), 22/2 min (3-02), situated in village Jonapur. The said proceedings were dropped by Id. SDM/RA on the ground that the same were vitiated being a nullity.

4. It is the case on behalf of the petitioners that the area in question was declared as Low Density Residential Area (LDRA) by way of notification dated 18.06.2013. Thus, it is submitted that after the declaration of the area as LDRA, the land ceased to be a rural area. Reliance is placed upon the judgment dated 10.04.2023 passed in the case of ***Rajeev Shah Through LRs Vs. GNCTD & Anr., 2023 SCC OnLine Del 2023.***

5. Issue notice. Notice is accepted by Id. Counsel for respondents.

6. I have heard Id. Counsels for the parties and after hearing the parties, I propose to dispose of the present writ petition, as only legal questions are involved in the present petition.

7. The documents on record clearly manifest that in the present case, the area in question where the land is situated, was declared as LDRA by way of notification dated 18.06.2013. Proceedings under Section 81 of the DLR Act were initiated in respect of the land of the petitioners on the basis of Halqa Patwari's Report dated 14.11.2013. Thus, any proceedings under the DLR Act could not have been commenced after the declaration of the land as LDRA.

8. This Court in the case of ***Rajeev Shah*** (supra) has categorically held that once an area has been declared as a LDRA, it ceases to be a



rural area and becomes part of the urban area. Thus, it has been held as follows:

“13. It is no longer res-integra that once an area has been declared as LDRA, it ceases to be a rural area and becomes part of urban area. The area in question i.e. Village Rajokri was declared as LDRA by way of Gazette notification dated 18.06.2013 issued by the Ministry of Urban Development (Delhi Division). Thus, after declaration of the area as LDRA, the land can no longer be said to be for agricultural purposes. The purpose of DLR Act is to protect agricultural use of the land. However, when an area itself is declared as Low Density Residential Area, non-agricultural use of land stands recognised by the Master Plan itself.

14. After modification in MPD, 2021 under Section 11A of DD Act, vide notification dated 18.06.2013, there is no manner of doubt that village Rajokri is an “urban village”. This Court in the case of Shri Neelpadmaya Consumer Products Pvt. Ltd. v. Sh. Satyabir @ Satbir⁴, has held that a notification for urbanisation need not only be through a notification under Section 507 of The Delhi Municipal Corporation Act, 1957 (DMC Act). It was held that once a notification is issued applying a zonal plan, issued pursuant to the Master Plan showing the subject lands as covered under the zonal plan issued by the DDA, in such a situation, the lands cease to be lands covered under the DLR Act, as the issuance of notification in the official gazette results in the lands becoming part of the Delhi land. Thus, it was held as follows:—

“20. There is yet another angle by which the issue can be looked upon and decided. This is in terms of Section 3(13) of the Act which defines the land which is the subject matter of the Act. Besides the definition of ‘land’ contained in Section 3(13) of the Act, I would also have to refer to the definition of ‘Delhi town’ and ‘New Delhi town’ which are contained in sub-Sections (5) and (15) of same Section 3.



Reference will also have to be drawn to Section 1 of the Act which provides for the scope of operation of the Act. These Sections 1, 3(5), 3(13) and 3(15) of the Act read as under:—

“Section 1. Short title, extent and commencement. - (1)

This Act may be called the Delhi Land Reforms Act, 1954.

(2) It extends to the whole of the Union territory of Delhi, but shall not apply to-

(a). [the areas which are or may before the first day of November, 1956 be] included in a Municipality or a Notified Area under the provisions of the Punjab Municipal Act, 1911, or a Cantonment under the provisions of the Cantonments Act, 1924.

(b) [areas] included in any estate owned by the Central Government or any local authority, and

(c) areas held and occupied for public purpose or a work of public utility and declared as such by the Chief Commissioner or acquired under the Land Acquisition Act, 1894, or any other enactment other than this Act, relating to acquisition of land for a public purpose.

(3) It shall come into force at once.

(4) The declaration of the Chief Commissioner under clause (c) of sub-section (2) shall be conclusive evidence that the land is held and occupied for a public purpose or a work of public utility.

Section 3(5) [‘Delhi town’ means the areas which immediately before the establishment of the Municipal Corporation of Delhi were included in the limits of Delhi Municipality, Civil Station Notified Areas, West Delhi Municipality and the Fort Notified Area);]

Section 3(13) “land” except in Sections 23 and 24, means



land held or occupied for purposes connected with agriculture, horticulture or animal husbandary including pisciculture and poultry farming and includes-

- (a) buildings appurtenant thereto,*
- (b) village abadis,*
- (c) grove-lands,*
- (d) lands for village pasture or land covered by water and used for growing singharas and other produce or land in the bid of a river and used for casual or occasional cultivation, but does not include-land occupied by buildings in belts of areas adjacent to Delhi town and New Delhi town, which the Chief Commissioner may by a notification in the Official Gazette declare as an acquisition thereto;*

Section 3(15) *“New Delhi town” means the area included in the limits of the New Delhi Municipality and Delhi Cantonment.”*

21. *A reading of the later part of sub-Section (13) of Section 3 of the Act shows that the land which is the subject matter of the Act would no longer be the subject matter of the Act if there is issued a notification in the Official Gazette that the land which was the subject matter of the Act is an acquisition to the Delhi town and New Delhi town. Delhi town and New Delhi town as the definitions thereof show that the areas which are included in a municipality or a cantonment area or New Delhi Municipal Council area etc. are excluded from the scope of the Act. Putting it in another words, areas which would fall under the municipalities i.e. urbanized areas or areas to be developed as an urban area were excluded from the purview of the Act. This also becomes clear from the reading of Section 1 of the Act which excluded the operation of the Act when it came into force to areas which fell within any municipality or notified area under the Punjab Municipal Act, 1911 or the Cantonments Act, 1924 i.e those areas which were not rural and fell in urbanized area. A conjoint reading of provisions of Sections 1, 3(5), 3(13) and 3(15) of the Act shows that the*



object of law was that on a notification being issued in the Official Gazette of an area which was falling under the Act thereafter as falling within the Delhi town and New Delhi town on such an action of such lands falling in Delhi town and New Delhi town these lands cease to be the subject matter of 'land' which was the subject matter of the Act on account of the said land being land within the meaning of the definition of the land in Section 3(13) of the Act. It is also required to be noted that the expression municipality with its cognate and agnate expressions has to be understood as being taken as urban areas because a municipality is for an urban area and it has to be taken as a generic term for urban area in terms of the object of the aforesaid provisions of the Act. Thus if by a notification in an Official Gazette an area ceases to be a rural land as it is urbanized for urban development, then such lands are no longer rural lands falling under Section 3(13) of the Act.

22(i). The issue is that whether there exists a notification issued in the Official Gazette declaring the subject land as falling within Delhi town and New Delhi town? On behalf of the defendants, it is argued that the land which is the subject matter of the Act can be urbanized only if notification is issued under Section 507 of the Delhi Municipal Corporation Act, 1957 and which admittedly has not been issued so far as the said village and suit lands are concerned and hence it is argued that once the land is not urbanized because a notification is not issued under Section 507 of the Delhi Municipal Corporation Act, the land in question continues to be the subject matter of the land falling under Section 3(13) of the Act and hence the land governed by the Act and hence the Agreements to Sell dated 25.9.2006 are hit by the provision of Section 33 of the Act.

22(ii) In response to the argument urged on behalf of the defendants, counsel for the plaintiff has argued that it is



not necessary that notification which is talked of in the later part of Section 3(13) of the Act has necessarily to be a notification only under Section 507 of the Delhi Municipal Corporation Act, 1951 inasmuch as even a notification issued by the Central Government under Section 11 of the Delhi Development Act, 1957 declaring an area to be the subject matter of a master plan or a zonal plan of the Delhi Development Authority, has the effect that such a land with respect to which a master plan or a zonal plan or an area plan is prepared (and which will entitle thereafter the DDA to treat such area as development area for being developed as per the master or zonal plan etc) shows that by such notification lands no longer will remain the subject matter of the Act inasmuch as such lands are part of urbanization. Reliance is also placed in this regard upon paras 19 and 24 of the judgment of a learned Single Judge of this Court in the case of Gur Pratap Singh v. Union of India (2004) 111 DLT 25, and by which paras, the learned Single Judge has held that once a particular area is a subject matter of the notification under the Delhi Development Act by notifying the master plan or zonal plan then such land becomes urbanized and hence is out of the scope of application of the Act and Section 3(13) of the Act. These paras 19 and 24 read as under:—

“19. This matter can be looked into from another aspect. The notification amending the Master Plan clearly provides that the land in question can be used for the purpose of a motel. Once this option is available and is exercised by owner of the land, the land is no more being used for agricultural purposes. Thus, once the land is elected to be used by the owner for a motel, permission for which has been granted under the amendment to the Master Plan, it no more remains agricultural land under the meaning of Section 3(13) of the Land Reforms Act. For this reason also, there would be no occasion for obtaining any permission. The Land Reforms Act is an enactment for



protecting the agricultural use of the land. Once this land itself ceased to be agricultural, there is, really speaking, no question of application of the Land Reforms Act. Needless to say, this is on account of the fact that there is permissible non-agricultural use of a motel in pursuance to the notification of 1995.

xxxxx xxxxx

24. Section 53(3) of the DDA Act makes it clear that once a permission for development under this Act has been obtained, the same shall not be deemed to be unlawful by reason of the fact that such permission, approval or sanction is required under any other law for which permission has not been obtained. Thus, in view of the mandate by the DDA and accepted by the MCD, there would be overriding effect of this mandate, even if the Land Reforms Act was to apply.”

(underlining added)

23. I agree with the argument which is urged on behalf of the plaintiff that a notification for urbanization need not only be through a notification under Section 507 of the Delhi Municipal Corporation Act as the later part of Section 3(13) of the Act does not in any way require that there is only one manner of notification viz only under Section 507 of the Delhi Municipal Corporation Act. This later part of Section 3(13) of the Act does not talk of a notification only under Section 507 of the Delhi Municipal Corporation Act. The requirement of this later part of Section 3(13) of the Act is only that a notification is issued in the Official Gazette to make the land as part of the Delhi town and New Delhi town. Once a notification is issued applying a zonal plan issued pursuant to the master plan showing that subject lands are covered under the zonal plan issued by the DDA, in such a situation, it has to be held that the lands cease to be the lands covered under the Act because of issuance of a notification in the Official Gazette results in the lands becoming part of the Delhi town. Additional reasoning on this aspect can be understood from the object and the language found in



Section 1 and Sections 3(5) and 3(15) of the Act and which Sections show that once an area falls within a town area and an area ceases to be an agricultural land because it has to be developed as part of the development of the Delhi town or New Delhi town, then such an area no longer remains an agricultural area for being covered under the expression land as defined in Section 3(13) of the Act. With humility, I am in complete agreement with the observations made by the learned Single Judge of this Court in the case of Guru Pratap Singh (supra) and which arrives at the same conclusion that once the land ceases to be agricultural, the land ceases to be the subject matter of the Act.

24. I may note that the plaintiff has proved the zonal plan Ex.PW 5/1 and the notification Letter dated 4.6.2010 as Ex.PW 5/2 and these documents clearly show that the entire village Goela Khurd and wherein the suit land is located is the subject matter of the zonal plan issued under the Delhi Development Authority. As per the aforesaid discussion, as also the ratio of the learned Single Judge in Gur Pratap Singh (supra), once the land is the subject matter of a zonal plan issued under Section 11 of the Delhi Development Act, the land is beyond the purview of the Act. It is also therefore immaterial as to what is the deposition made in this regard by the witness PW-5, inasmuch as, the arguments urged on behalf of the defendant that PW-5 has stated in cross-examination dated 1.2.2013 that it is not known as to whether khasra numbers of village Goela Khurd fall or do not fall in the “dotted or the recreational area” inasmuch as Ex.PW 5/1 and Ex.PW 5/2 show that the entire area of village Goela Khurd is a part of the zonal plan. As long as the village Goela Khurd is the subject matter of the zonal plan Ex.P5/1 that it is sufficient for the entire area of village Goela Khurd to be urbanized land, hence the subject land is situated and become an area which is notified for urbanization resulting in taking the same out of rural areas which are



the subject matter of the Act. Also, in my opinion, once a particular area falls within the zonal development plan issued by the DDA under Section 11 of the Delhi Development Act, thereafter calling the same by any description, whether rural or otherwise cannot take away the effect that the said land is very much part of notification issued for development of the area which is the subject matter of the zonal plan and hence the subject matter of issuance of a notification falling in the later part of Section 3(13) of the Act taking such land as outside the operation of the Act.”

9. In view of the aforesaid law position, it is clear that after issuance of the notification dated 18.06.2013, the area in question became an urban village and therefore, the DLR Act ceased to apply on the land in question.

10. Hon’ble Supreme Court in the case of ***Mohinder Singh (Dead) Through LRs & Anr. Vs. Narain Singh & Ors, 2023 SCC OnLine SC 261*** has categorically held that all the proceedings under the DLR Act cannot continue, once area in question has been urbanized. Thus, it has been 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.”

11. In view of the aforesaid law position, it is clear that the proceedings which are pending before the Id. Deputy Commissioner under the DLR Act cannot continue any further.



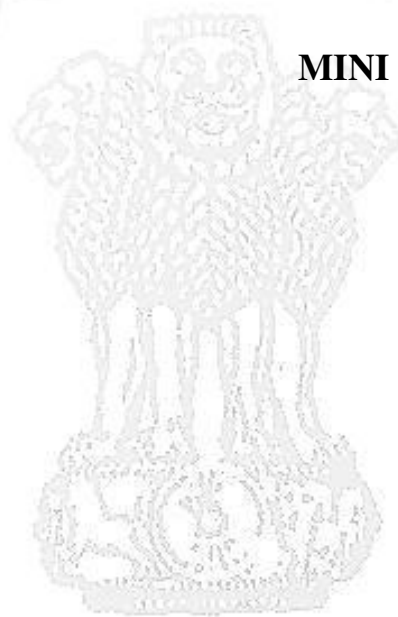
12. In view of the aforesaid detailed discussion, the appeal bearing No. 53/2014 titled as ***G.S. Jonapur Vs. Shweta Aggarwal & Ors.***, pending before the 1d. Deputy Commissioner (South) filed by respondent No.2, Gaon Sabha Jonapur with respect to land of the petitioners bearing Khasra No. 58/21/2, 22/1 min(0-7), 21/1 min(0-06), 22/2 min (3-02), situated in village Jonapur, are hereby quashed.

13. The present writ petition is allowed in the aforesaid terms.

MINI PUSHKARNA, J

MAY 25, 2023

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