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

% *Decided on: 10th March, 2023*

+ W.P.(C) 10778/2021 & CM APPL. 33255/2021

HOLISTIC FARMS PVT. LTD Petitioner

Through: Mr. N.S. Dalal with Mr. Devesh
Pratap Singh, Mr. Alok Kumar
and Ms. Rachana Dalal and
Ms. Sweta Kadyan, Advocates.

versus

GAON SABHA RAJOKRI & ORS. Respondents

Through: Mr. Dhairya Gupta, Advocate
for Mr. Anupam Srivastava,
ASC, GNCTD for respondent
nos. 1 and 3.
(m): 9811128170

CORAM:

HON'BLE MS. JUSTICE MINI PUSHKARNA

[Physical Hearing/ Hybrid Hearing]

MINI PUSHKARNA, J. (ORAL):

1. This matter is taken up today as 09.03.2023 was declared a holiday.
2. The present writ petition has been filed with prayer for order and direction thereby holding that in view of the urbanisation of Village Rajokri in pursuance of notification under Section 507 of the Delhi Municipal Corporation Act, (DMC Act), provisions of Delhi Land Reforms Act, 1954 (DLR Act) ceases to apply. There is further prayer for directions to the respondents to drop the proceedings pending disposal before the Court of Additional District Magistrate (ADM) in view of urbanisation of the land in question.

3. Petitioner is owner of land bearing Khasra no. 240 (0-15), 241 min (0-15), 243 min (1-14), 242 (4-16) and 239 (4-16), situated in the revenue estate of Village Rajokri, New Delhi. The petitioner constructed a farm house over the land owned by it after obtaining a duly sanctioned plan from the Municipal Corporation of Delhi (MCD).

4. It is the case of the petitioner that just after purchase of land by the petitioner in the month of January, 2013, a report was given by Halka Patwari to the Sub-Divisional Magistrate (SDM) thereby alleging illegal construction. Pursuant thereto, a show cause notice and restraint order dated 18.01.2013 was issued by the SDM. Reply thereto was filed by the petitioner on 15.03.2013. Before the SDM, the petitioner submitted that there was no colonisation by it and that the petitioner had constructed a farm house as per the sanctioned plan. Thus, by its order dated 14.08.2013, the learned SDM dropped the proceedings against the petitioner.

5. Subsequently, the Gaon Sabha i.e. respondent no. 1 herein filed an appeal against the aforesaid order of the learned SDM. The said appeal being Appeal No. 51/2013 is still pending disposal before the learned ADM. Thus, the present writ petition has been filed.

6. It is the case of the petitioner that the proceedings before the Learned ADM cannot continue, as the Village in question where the land is situated, was declared as Low Density Residential Area in the year 2013 and was subsequently urbanised in the year 2020. In support of its submissions, the petitioner has relied upon the following judgments:

“(i) Indu Khorana Vs. Gram Sabha & Others, judgment dated 26.03.2010 in W.P (Civil) No. 4143/2003 by Hon'ble Division Bench of this Court.”

(ii) Narain Singh & Another Vs. Financial Commissioner & Others, judgment dated 22.11.2012 in LPA No.591 of 2008

(iii) Prithvi Raj Vs Gaon Sabha Palam, judgment dated 20.12.2010 passed in W.P (Civil) No. 4279/2007.”

7. Respondent no. 1 in its counter affidavit has submitted that the present writ petition raises various disputed questions of facts, which cannot be adjudicated by this Court in writ jurisdiction. The appeal filed on behalf of the respondent no. 1 can be agitated by the petitioner before the learned ADM and the present writ petition is liable to be dismissed.

8. It is further the case on behalf of respondent no. 1 that the case of the petitioners falls under Case 4, as detailed in the judgment in ***Sanvik Engineers India Pvt. Ltd & Anr. Vs GNCTD of Delhi & Anr., W.P. (C) 5267/2020***. It is submitted that as per the said judgment, where a notification under DMC or DDA Act comes to be issued during the pendency of an appeal or revision against the final order at the behest of the landholder or Gaon Sabha, the right to institute or continue pending appeals against final orders passed under Section 81 would not stand extinguished merely because the land in the meanwhile had fallen under the control of the DMC or DDA.

9. Learned counsel for respondents 1 and 3 has relied upon the following judgments:-

(i) *Managing Director Chhattisgarh State Cooperative Bank Maryadit vs. Zila Sahkari Kendriya Bank Maryadit & Ors.*, MANU/SC/0274/2020

(ii) *Ramesh Chandra Shrivastava vs. Murti Ramchandraji*, MANU/MP/0406/2003

(iii) *Shyam Sundar & Ors. vs. Ram Kumar & Ors.*, MANU/SC/0405/2001

(iv) *Ambalal Sarabhai Enterprises Ltd. vs. Amrit Lal & Co. & Ors.*, (2001) 8 SCC 397

(v) *Indu Khorana vs. Gram Sabha & Ors.*, MANU/DE/0969/2010

(vi) *Narain Singh & Ors. vs. Financial Commissioner & Ors.*, MANU/DE/6513/2012

(vii) *Delhi Development Authority & Ors. vs. Pushpa Lata & Ors.*, MANU/DE/0987/2020

10. I have heard learned counsels for the parties and perused the record.

11. It is undisputed that the area in question i.e. Village Rajokri was declared as Low Density Residential Area by way of Gazette Notification dated 18.06.2013 issued by the Ministry of Urban Development (Delhi Division). By way of the said Gazette notification, 23 villages were declared as Low Density Residential Area (LDRA), including Village Rajokri. The said Gazette notification also recognised the existence of farm houses clusters in the said villages. Thus, when the petitioner constructed a farm house on its land in village Rajokri, pursuant to sanction of building plan for

construction of farm house vide order dated 13.07.2011 from the MCD, the same cannot be said to be unauthorised or in violation of the DLR Act.

12. The petitioner received a notice and restraint order dated 18.01.2013 under Section 81 of the DLR Act. However, considering the facts of the case, by order dated 14.08.2013 passed by the Court of Revenue Assistant, Vasant Vihar, the proceedings against the petitioner herein under Section 81 of the DLR Act were dropped. Against the said order of the Revenue Assistant, Gaon Sabha has filed Appeal bearing No. 51/2013, which is pending before the Court of ADM. During the pendency of the said appeal, Gazette Notification dated 21.11.2019 has been issued under Section 507 of the DMC Act, thereby declaring Village Rajokri as urbanised.

13. Perusal of the aforesaid facts clearly manifest that the area in question had been declared as LDRA during the pendency of proceedings before the Revenue Assistant. The gazette notification declaring the area as LDRA recognised the existence of farm houses in the village in question. Thus, after the declaration of the area as LDRA and construction of farmhouse pursuant to sanction of building plan by MCD, 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 LDRA, non-agricultural use of land stands recognised by the Master plan itself.

14. Therefore, the proceedings against the petitioner under Section 81 of DLR Act were rightly dropped by the Revenue Assistant.

15. Further, it is pertinent to note that once an area has been urbanised, it ceases to remain as rural area. When an area ceases to be a rural area, then there is no question of any jurisdiction with the Revenue Authorities. For the purposes of applicability of provisions of DLR Act, an area has to be rural, as the provisions of the DLR Act do not apply to urbanised area. In urbanised areas, provisions of DMC Act are applicable.

16. It is also to be noted that to implement the process of urbanisation, further Gazette notification dated 25.09.2020 was published vide which the land of the urbanised villages have been placed by the Central Government at the disposal of the DDA for the purpose of development and maintenance of the said areas as per the Master plan of Delhi.

17. The issue concerning the applicability of the DLR Act is no longer res-integra in view of the judgment of the Division Bench of this Court in the case of *Indu Khorana Vs Gram Sabha & Ors*¹, wherein it was held that once a rural area is urbanised by issuance of notification under Section 507 (A) of the DMC Act, 1957, provisions of DLR Act will cease to apply. Thus, it was held as follows:-

“11. We thus hold that once rural area is urbanized by issuance of notification under section 507(a) of the Delhi Municipal Corporation Act, 1957, provisions of Delhi Reforms Act will cease to apply. The reference stands answered accordingly. The file be placed before the Acting Chief Justice for sending the same to the learned Single Judge for deciding the case on merits.”

¹ 2010 SCC OnLine Del 1334

18. The aforesaid judgment in the case of Indu Khorana (supra) was passed considering earlier judgments of this Court in the cases of *Trikha Ram Vs Sahib Ram & Anr*², and *Madho Parshad Vs Ram Kishan & Ors.*³. In the said judgments, it has been held in categorical terms that once land is declared as urban land, it could no longer be classified as Village Abadi land within the definition of “land” under the DLR Act and, thus, the provisions of DLR Act would not be applicable.

19. Thus, the position of law is clear that when the provisions of DLR Act cease to apply, the proceedings under the said Act cannot continue, especially when the proceedings under Section 81 of the DLR Act have already been dropped by Court of Revenue Assistant by its order dated 14.08.2013. Therefore, as of today, there is no order against the petitioner herein under the DLR Act. Another fact which is of importance, as noted above, is that the said area where the land in question is situated, was declared as LDRA vide notification issued by the Central Government dated 18.06.2013. When the village in question was itself recognised as a residential area by way of a Gazette Notification, no proceedings against the petitioner under Section 81 of the DLR Act are justified.

20. The contention of the respondents that the proceedings against the petitioner in the appeal pending before the Appellate Authority/ADM, ought to continue as the present case falls in Case 4 as detailed in the case of *Sanvik Engineers* (supra), is totally erroneous

² 1997 SCC OnLine Del 798

³ 2001 SCC OnLine Del 710

and liable to be rejected. This is for the reason because the area in question had already been declared as DLRA by virtue of notification dated 18.06.2013 issued by the Central Government under Section 44 of the Delhi Development Act, 1957. When the authorities have recognised an area as residential area, construction of farm house by the petitioner after obtaining due sanction from the MCD, cannot be considered to be in violation of the DLR Act and thus, no proceedings under Section 81 of the DLR Act can continue. The present case would thus, fall in case 2 as enumerated in the case of *Sanvik Engineers* (supra). Restraint order dated 18.01.2023 had been issued in the present case. During the pendency of proceedings before the Revenue Assistant, the area came to be declared as LDRA. Thus, continuation of any proceedings under the DLR Act thereafter, would be flawed.

21. In view of the aforesaid detailed discussion, it is directed that the proceedings pending against the petitioners in Appeal No. 51/2013, titled as *Gaon Sabha Rajokri Vs Holistic Farms Private Limited*, pending disposal before the respondent no. 3 be dropped.

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

MINI PUSHKARNA, J

MARCH 10th, 2023

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