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

% *Decided on: 4th January, 2023*

+ W.P. (C) 10270/2015

M/S MAHAJAN INDUSTRIES PVT. LTD. Petitioner
Through: Ms. Smita Maan, Advocate
versus

GAON SABHA CHATTARPUR Respondent
Through: Mr. Santosh Kr. Tripathi, SC
(Civil) for GNCTD, Mr. Arun
Panwar, Ms. Mehak Rankawat,
Advocates (M:9818112250)

CORAM:

HON'BLE MS. JUSTICE MINI PUSHKARNA

[Physical Hearing/ Hybrid Hearing]

MINI PUSHKARNA, J. (ORAL)

1. The present writ raises the issue on the aspect that once land in question has already been urbanised, then proceedings under Section 81 of the Delhi Land Reforms Act, 1954 (DLR Act) would become non-est and would not be maintainable.

2. The present case pertains to land of the petitioner comprised in Khasra No. 1274 Min, 1275, 1276/2, 1279/2, total ad-measuring 15 bighas 4 biswas situated at Village Chattarpur, New Delhi which is presently also known as DLF Chattarpur Farms, Chattarpur, New Delhi-110074. Proceedings with respect to the aforesaid land in question under Section 81 of the DLR Act were instituted in the year 2003. Pursuant thereto, an order in the nature of conditional decree dated 31.08.2015 came to be passed by the Revenue Assistant/SDM

(Saket), Revenue Department, District South, Government of NCT of Delhi. Against the aforesaid order/conditional decree dated 31.08.2015, the present writ petition has been filed.

3. From the documents on record, it is clear that the village in question, i.e., Chattarpur Village is part of the list of villages in area of Abadi in Zone J, as per the Master Plan of Delhi- 2021 (MPD-2021). The MPD-2021 enlists the villages situated in area of Abadi in Zone J. Chattarpur is shown at S.No.11 of the said list as given in MPD-2021. As per the MPD-2021, Zone J is shown as an area under an urban extension. The extract from MPD-2021 showing Zone J as an urban extension is reproduced as under:

“3.2 URBAN EXTENSION

Out of the remaining 77 lakh (230-153 lakh) population, 29 lakh already exists in villages, census towns, unauthorised colonies and JJ clusters in the present rural areas. Therefore about 48 lakh additional population is to be accommodated in the future urban extensions.

Due to land constraint in the NCTD, the areas earmarked as rural / agricultural in the previous Master Plans have always been under pressure for utilisation for various urban activities and have virtually lost their original character. In future, urbanisation has to be in the areas that have development pressure/poential like the areas along the major transport corridors and fringes of already urbanised areas. It is envisaged that major rural areas would be absorbed as urban extension from time to time with due regard to balanced city development.

At the first instance, to accommodate the projected additional population @ 250-300 pph average city level density, the requirement for urban extension would be 20,000-22,000 ha. of land within development time frame of 15 -16 years. The immediate urban extension could be in the zones of J to L, N & P (I & II)'. The land required

for urban extension, will have to be assembled for planned development. Considering the constant pressure on the rural land, new farmhouses and motels shall not be permitted in the proposed Urban Extension as per MPD-2021.”

4. DDA by its notification dated 17.06.2010 under Section 11 of the DDA Act, 1957 has approved the Zonal Development Plan for South Delhi – II (Zone – J). The said notification issued by the DDA dated 17.06.2010 clearly gives the land use of urban extension area, which includes Zone J of Chattarpur area. The land use as given by the DDA in its notification dated 17.06.2010 under Section 9 of the DDA Act, 1957 is reproduced as below:

Proposed Land use breakup of Urban Extension area

<i>Land use</i>	<i>Area in Hact.</i>	<i>Percentage</i>
Residential	4547	55
Commercial	413	5
Public & Semi-Public	827	10
Govt. Use		
Govt. Offices	165	2
Use: Undetermined	165	2
Recreational Use	1239	15
Circulation	912	11
Total	8268	100

5. Thus, after notification of MPD-2021 w.e.f. 07.02.2007, Village Chattarpur has been shown as urban extension area, wherein residential activities have been allowed.

6. Reference may also be made to notification dated 18.06.2013 issued by the Ministry of Urban Development (Delhi Division), Govt. of India, wherein land in question has been notified as Low Density

Residential Area (LDRA). The said notification gives the details of list of villages which have been declared as Low Density Residential Area (LDRA) in urban extension. The name of Village Chattarpur is reflected at serial no. 3 of the said notification dated 18.06.2013 issued by the Ministry of Urban Development, Government of India.

7. Similarly, notification dated 20.11.2019 has been issued under Section 507 of the Delhi Municipal Corporation Act, 1957, thereby declaring in categorical terms that all the villages which are included in the said notification which were part of the rural areas, shall cease to be rural area and shall be deemed to be as urban areas. Chattarpur village is reflected at serial no. 33 in the said notification under the South District.

8. Perusal of the aforesaid clearly shows that village Chattarpur is no longer part of the rural village and is now an urban area. Thus, as per the judgment in the case of ***Sanvik Engineers India Pvt. Ltd & Anr. Vs. Government of NCT of Delhi & Anr.***, 289 (2022) DLT 18, it is clear that the areas which are declared as urbanised, proceedings under Section 81 of the DLR Act would not be maintainable. The judgment of ***Sanvik Engineers India Pvt. Ltd & Anr. Vs. Government of NCT of Delhi & Anr.*** holds as under:

“2. The issue of the applicability of the DLR once a notification comes to be issued under the DMC or the DDA Acts has fallen for consideration in the past before this Court and the consistent line which has been struck in those judgments is that once the land comes to be urbanised and forms part of a notification issued under the DMC or the DDA Acts, the provisions of the DLR would cease to have any application. The

*principle enunciated in those decisions essentially rests on the definition of land as comprised in Section 3(13) of the DLR which defines “land” to mean that which is held or occupied for purposes connected with agriculture, horticulture or animal husbandry including pisciculture, poultry farming and further expands and brings within its scope buildings appurtenant thereto, village abadis, grove lands and lands reserved for village pasture or covered by water. Section 3(13) excludes lands occupied by buildings in belts of areas adjacent to Delhi town and which may by notification be declared as an acquisition thereto. The body of precedent which has evolved on the aforesaid question originates from the authoritative pronouncement by the Division Bench of this Court in **Smt. Indu Khorana Vs. Gram Sabha & Ors.**, 2010 SCC OnLine Del 1334. The line of decisions which have come to be rendered thereafter have essentially followed the basic principles enunciated in Indu Khorana. However, the present batch of writ petitions and the facts which obtain therein, give rise to questions such as the impact of those notifications on pending proceedings including in relation to appeals that may have been preferred and remain pending on the board of the competent appellate authorities. The respondents also place reliance on two circulars dated 3 July 2013 and 4 February 2020 to contend that notwithstanding the issuance of notifications under the DMC or the DDA Act, proceedings once commenced would be liable to be taken to their logical conclusion. With the assistance of learned counsels for respective parties who have appeared in this batch and to facilitate enunciation of the legal position which would flow in various situations that may arise, the Court has classified them under the following four broad heads: -*

CASE 1 *Where proceedings have not been initiated and notifications under the DMC/DDA Acts intervene.*

CASE 2 Where although proceedings have been initiated or a conditional order made, notifications come to be issued before a final order directing ejectment and vesting is passed.

CASE 3 Where the notifications come to be issued after a final order of ejectment and vesting comes to be made.

CASE 4 Where a notification comes to be issued during the pendency of an appeal or revision against a final order at the behest of the landholder or Gaon Sabha.

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83. Having traversed this distance and upon consideration of the seminal questions which arose in this batch, the Court in summation records its conclusions as follows: -

.....
E. While dealing with matters which would fall within the ambit of CASE 2, it must be held that once notifications come to be issued under the DMC or the DDA Acts, they manifest an unequivocal fact of the land becoming urbanized and no longer falling within the sweep of Section 3(13). The Court also bears in mind the indubitable fact that Section 81 is primarily concerned with ensuring that rural land is not diverted to uses other than those specified in Section 3(13). If that be the primary and solitary objective of Section 81, as this Court duly recognises it to be, it would be wholly illogical and incongruous to require the owner or the occupier to restore the land to its agricultural state even though the surrounding area may have become totally urbanised.

.....
J. The argument based on Section 150(3)(d) must also fail insofar as CASE 2 is concerned bearing in mind the fact that the issuance of a notification under the DMC Act results in not just the dissolution of the Gaon Sabha but the land then coming to be governed by the

provisions of the DMC or the DDA Acts.”

9. Consequently, the law position is clear that where proceedings have been initiated under the DLR Act and a conditional order has been made and notification for urbanisation of the land is issued prior to the issuance of the final order, then the said proceedings under the DLR Act, 1954 will not lie.

10. Once notification has come to be issued under the Delhi Municipal Corporation Act, 1957 and Delhi Development Act, 1957, then the land in question becomes urbanised. Thus, any proceedings under the DLR Act, 1954 as such would not be maintainable as Delhi Land Revenue Act, 1954 and Delhi Land Reforms Act, 1954 will cease to have any effect or applicability with respect to such lands.

11. Aforesaid judgment in the case of ***Sanvik Engineers India Pvt. Ltd & Anr. Vs. Government of NCT of Delhi & Anr.*** has been followed by this Court in various judgments viz. ***Pushpanjali Residents’ Welfare Association & Anr. Vs. The Deputy Commissioner and Ors.***, vide order dated 10.02.2022 in **W.P.(C) 8098/2012**; vide order dated 08.04.2022 in **W.P. (C) 5842/2022, Saroj Kumari Gupta & Ors. Vs. Government of NCT of Delhi and Ors.**; vide order dated 27.05.2022 in **W.P.(C) 7194/2022, Gajender Singh Vs. Government of NCT of Delhi & Ors.**; vide order dated 02.06.2022 in **W.P.(C) 9184/2022, Som Prakash Gupta & Anr. Vs. Government of NCT of Delhi & Anr.**; vide order dated 14.09.2022 in **W.P.(C) 13023/2022, Vijay Gupta Vs. Government of NCT of Delhi and Ors.** and vide order dated 02.05.2022 in **W.P.(C) 6902/2022,**

Kamal Sidhu Vs. Government of NCT of Delhi and Anr.

12. All the aforesaid judgments and orders have followed the judgment in the case of ***Sanvik Engineers India Pvt. Ltd & Anr. Vs. Government of NCT of Delhi & Anr.*** and have held in categorical terms that once the land in question has been urbanised, then any proceedings under the DLR Act, 1954 as such would not be maintainable.

13. Perusal of the documents on record clearly shows that the present case is covered under Case 2 as reflected in the judgment of ***Sanvik Engineers India Pvt. Ltd & Anr. Vs. Government of NCT of Delhi & Anr.*** It is informed by Id. Counsel for petitioner that as regards case no. 3 and 4, as enunciated in the judgment of ***Sanvik Engineers India Pvt. Ltd & Anr. Vs. Government of NCT of Delhi & Anr.***, an appeal being LPA 188/2022 has been filed, which is now listed for hearing on 27.01.2023. She further informs that as far as case no. 1 and 2 as enunciated in the judgment of ***Sanvik Engineers India Pvt. Ltd & Anr. Vs. Government of NCT of Delhi & Anr.*** is concerned, no appeal has been filed either by private land owners or by Government. Thus, she submits that finding of the court with respect to case no. 1 and 2 as enunciated in the case of ***Sanvik Engineers India Pvt. Ltd & Anr. Vs. Government of NCT of Delhi & Anr.*** has attained finality. This position is not disputed by Id. Counsel for respondent.

14. In the present case, it is clearly seen that land in question, i.e., village Chattarpur has already been declared as urbanised by virtue of notification under DMC Act as well as DDA, Act. Further, land in

question has also been declared as Low Density Residential Area (LDRA) as per notification issued by the Government of India. Thus, user of the land, as such, as declared by the Master Plan and notifications of the DDA as well as MCD, is now residential. Therefore, once notification of the government and its authorities as well as the Master Plan itself declare user of the land as residential, then the owner of the land in question cannot be forced to use the land for agricultural purposes, when the land in question has ceased to be agricultural in nature.

15. By order dated 02.11.2015 passed in the present proceedings, this Court had earlier set aside the impugned order dated 31.08.2015 passed by Revenue Assistant/SDM (Saket), Delhi. However, despite setting aside of said order, the matter was remanded back to the Revenue Assistant/SDM (Saket), Delhi to decide the application under Section 81 of the DLR Act. Against the said order dated 02.11.2015 passed in the present proceedings, an appeal was filed, being LPA No. 874/2015. By order dated 24.01.2018 passed in LPA No. 874/2015, Division Bench of this Court set aside the said order dated 02.11.2015 and remanded the matter back to this Court for hearing on merits.

16. In view of the aforesaid, it is held that Delhi Land Reforms Act, 1954 shall not be applicable to the land of the petitioner situated in revenue estate of village Chattarpur, as the said land has lost its character as agricultural land and is now an urbanised land in view of the aforesaid notifications of the DDA and MCD; and the declaration of the Zonal Development Plan under the Master Plan 2021. Consequently, the order/conditional decree dated 31.08.2015 issued

by the Revenue Assistant/SDM (Saket), Revenue Department; District – South, Government of NCT of Delhi is quashed.

17. Accordingly, all the proceedings initiated under the Delhi Land Reforms Act, 1954 bearing Case No. 583/RA/HK/2003 shall also stand quashed.

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

JANUARY 4, 2023

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MINI PUSHKARNA, J

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