



2024:DHC:2119



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

% Judgment delivered on: 14.03.2024

+ **W.P.(C) 3827/2024 & CM APPL. 15710/2024****PRAVEEN JAIN**

..... Petitioner

versus

**FINANCIAL COMMISSIONER
AND OTHERS**

..... Respondents

Advocates who appeared in this case:

For the Petitioner : Mr. Sunil Chauhan, Ms. Vatsala Chauhan, Advocates
For the Respondent : Mr. Karan Bhardwaj, ASC, GNCTD with Mr. Shubham Singh and Mr. Rajat Gaba, Advocates for R-1 to 3.
Mr. Rajesh Yadav, Sr. Advocate with Mr. Rana, Mr. Anil Sharma, Mr. Gagan Gupta and Ms. Bahawana, Advocates for R-4.

CORAM:**HON'BLE MR. JUSTICE TUSHAR RAO GEDELA****J U D G M E N T****TUSHAR RAO GEDELA, J. (ORAL)****[The proceeding has been conducted through Hybrid mode]**

1. This is a writ petition under Article 226 of the Constitution of India 1950, inter alia, seeking following relief:-

"It is, therefore, most respectfully prayed that this Hon'ble Court may be pleased to issue a writ, order or direction in the nature of mandamus or any other appropriate writ, order or directions, thereby



directing the Respondent Nos. 2 and 3 to hand over/restitute the possession of the land comprised in Khasra No.193/1 min (0-8), 193/2/2min (0-9), 193/2/2 (0-8), 193/2/2 (3-0), 193/1 (3-11), 193/2/2 (2-18), 193/1 (3-0), and Khasra No. 193/2/4 (6-15) in all measuring 20 Bighas 09 Biswas along with contiguous adjacent land comprised in Khasra No.193/2/3 (6-12) situated within the Revenue Estate of village Bijwasan, Delhi to the Petitioner and the Respondent No. 5 in view of the setting aside of the ejectment order dt. 04.02.2021 passed under section 84 of DLR Act by the Ld. Revenue Assistant, Kapashera by the Order dt. 15.02.2024 passed by the Respondent No. 1.

Any other order or relief that this Hon'ble Court deem appropriate in the facts and circumstances of the case may also be passed in favour of the Petitioners and against the Respondents."

CM APPL. 15709/2024

2. The applicant/petitioner by way of this application seeks interim order of the following nature:-

"It is therefore, most respectfully prayed that this Hon'ble Court may be pleased to pass an order thereby restraining the Respondent No. 4 from selling, transferring, alienating, parting with the possession, or creating any third party interest in the Writ Land comprised in Khasra No.193/1 min (0-8), 193/2/2min (0-9), 193/2/2 (0-8), 193/2/2 (3-0), 193/1 (3-11), 193/2/2 (2-18), 193/1 (3-0), and Khasra No. 193/2/4 (6-15) in all measuring 20 Bighas 09 Biswas along with contiguous adjacent land comprised in Khasra No.193/2/3 (6-12)



situated within the Revenue Estate of village Bijwasan, Delhi during the pendency of the present Writ Petition in any manner.

Any other order or relief that this Hon'ble Court deem appropriate in the facts and circumstances of the case may also be passed in favour of the Petitioners and against the Respondents."

3. Mr. Chauhan, learned counsel appearing for the applicant/petitioner insisted that this Court passes an order of interim stay restraining the respondent no.4 from selling, transferring, alienating, parting with the possession, or creating any third party interest in the subject land.

4. At the outset, Mr. Chauhan referred to the para (g) of the order dated 15.02.2024 passed by the learned Financial Commissioner to submit that by virtue of the order dated 04.02.2021, the Revenue Assistant in a proceeding under Section 84 of the Delhi Land Reforms Act, 1954 (hereinafter referred to as 'DLR Act') had directed dispossession of the petitioner from the subject land and putting respondent no.4 in possession instead.

5. The order dated 04.02.2021 passed by the Revenue Assistant is annexed at page 108 whereby such dispossession/ejectment was directed. The relevant para 23 is as follows:-

"23. Under the discussion made herein above with regard to respective contention of the parties and the material available on record, I hereby allow the petition of the petitioner and decree is passed to the effect that the respondents are hereby ejected from the



suit land and are further directed to vacate the suit land immediately and hand over the physical possession of the suit land now comprising in Khasra No. 193//2/4 (6-15), 193//2/2 min (6-7), 193//2/2 min (0-8) and 193//1 (6-19) situated within the revenue estate of village Bijwasan, Delhi to the petitioner herein.”

6. The contention of the petitioner is that on 24.02.2021, the order dated 04.02.2021 was executed and the petitioner was dispossessed of the subject land. Aggrieved therefrom, the petitioner had filed an appeal before the Deputy Commissioner under Section 185 of the DLR Act, 1954. Upon an overall consideration of facts arising before the Deputy Commissioner which also included the appeal filed by respondent no.4 against the order dated 04.02.2021, the Deputy Commissioner upon finding procedural defects, had allowed the appeal and set aside the order dated 04.02.2021 by remanding the same back to the Revenue Assistant for de novo decision, by the order dated 21.08.2023.

7. Mr. Chauhan submits that aggrieved by the said order dated 21.08.2023, the petitioner as also the respondent no. 4 filed Revision Petition under Section 187 of the DLR Act before the learned Financial Commissioner which passed the order dated 15.02.2024. By the order dated 15.02.2024, the learned Financial Commissioner had noted the judgement of Supreme Court in ***Mohinder Singh (Dead) Through LRs & Anr. Vs. Narain Singh & Ors.*** reported in **2023 SCC OnLine SC 261**; the notification dated 18.06.2013 of Ministry of Urban Development (Delhi) declaring Village Bijwasan as Low Density Residential Area and the judgements of this Court in ***Rajeev Shah***



(Deceased) through LR Gayatri Shah Vs. Government of NCT of Delhi & Ors. passed in W.P.(C) 3502/2022, *Shweta Agarwal & Anr. Vs. Govt. Of NCT of Delhi & Anr.* passed in W.P.(C) 7159/2023 and *Sh. Jitender Vs. Govt. of NCT of Delhi & Ors.* passed in W.P.(C) 3421/2023 and concluded that the Delhi land Reforms Act, 1954 had ceased to apply to the subject land. Learned Financial Commissioner further directed that the parties may approach the appropriate forum and protected the parties from creation of third party rights and granted 60 days for approaching the appropriate forum.

8. In the aforesaid background, Mr. Chauhan submits that the petitioner was aggrieved by the fact that though the Deputy Commissioner had set aside the order dated 04.02.2021, however, his application seeking restitution of possession was not disposed of. Being aggrieved of the same, the petitioner had approached the learned Financial Commissioner which too did not consider his prayer for restitution of possession.

9. This Court has heard the arguments of Mr. Chauhan, learned counsel for the petitioner as also Mr. Yadav, learned senior counsel for the respondent no.4.

10. At the outset, it is relevant to note pertinently that the petitioner has not challenged or impugned or even assailed the order dated 15.02.2024 passed by the learned Financial Commissioner. All that the petitioner seeks in his prayer is a direction to respondent no.2 and 3 to hand over or restitute the possession of the subject land to the petitioner.

11. It will be relevant to note the prayer made in the writ petition which is as under:-



“It is, therefore, most respectfully prayed that this Hon’ble Court may be pleased to issue a writ, order or direction in the nature of mandamus or any other appropriate writ, order or directions, thereby directing the Respondent Nos. 2 and 3 to hand over/restitute the possession of the land comprised in Khasra No.193/1 min (0-8), 193/2/2min (0-9), 193/2/2 (0-8), 193/2/2 (3-0), 193/1 (3-11), 193/2/2 (2-18), 193/1 (3-0), and Khasra No. 193/2/4 (6-15) in all measuring 20 Bighas 09 Biswas along with contiguous adjacent land comprised in Khasra No.193/2/3 (6-12) situated within the Revenue Estate of village Bijwasan, Delhi to the Petitioner and the Respondent No. 5 in view of the setting aside of the ejectment order dt. 04.02.2021 passed under section 84 of DLR Act by the Ld. Revenue Assistant, Kapashera by the Order dt. 15.02.2024 passed by the Respondent No. 1.

Any other order or relief that this Hon’ble Court deem appropriate in the facts and circumstances of the case may also be passed in favour of the Petitioners and against the Respondents.”

12. From the above, it is apparent that the petitioner is not assailing the order of the Financial Commissioner dated 15.02.2024, but in a way, is seeking this Court to pass a direction of restitution, contrary to the order dated 04.02.2021 passed by the Revenue Assistant. All that the order dated 21.08.2023 of the Deputy Commissioner under Section 185 of the DLR Act did was to set aside the order dated 04.02.2021 by allowing the appeals of the petitioner as also the respondent no.4 and remitted the matter back to the Revenue Assistant to decide the matter afresh. The facts are disputed and hotly contested which is obvious by



various orders passed between the parties on record. It is apparent that the present petition is predicated on disputed questions of facts which ordinarily, a writ Court would not interfere with. That apart, keeping in view the fact that the petitioner is seeking restitution in the prayer from a writ Court, it is beyond the comprehension of this Court as to on what basis this Court can direct restitution, particularly when both parties are claiming possession over the said subject land.

13. The hotly contested and disputed facts can be ascertained by the various orders passed between the parties which are as follows:

Order dated 04.02.2021 passed by the Revenue Assistant:

“By this order, I shall decide the suit filed u/ s 84 of Delhi Land Reforms Act, 1954 by petitioners M/ s Tanishq Estate (P) Ltd. In respect of the land bearing Khasra No. 193/1(0-8), 193/2 /2 (0-9), 193/2/2 (0-8), 193/2 (3-0), 193/1(3-11), 193/ 2/2 (2-18), 193/1 (3-0) total measuring 13 Bhigha 14 biswas and Khasra No. 193/2/4 (6-15) situated within the revenue estate of Village Bijwasan Delhi for ejectment of the respondents and the applications filed by the respondents under Order 7 Rule 11 read with Section 151 CPC & under Section 10 of CPC 1908.

1.The present petition has been filed by the petitioner on the ground of being bhumidhar of the subject land which entitles the petitioner to eject respondents who are occupying it without title. Section 84 of DLR Act (for short the act herein after referred as Act) provides Ejectment of Occupant Occupying without title.

2.The petitioner in support of his contention has submitted that the suit land has been purchased by the petitioner vide registered sale deed dated 26/04/2019 on the basis of which the mutation of the Subject land was duly sanctioned in its favour and since then the petitioner is the bhumidhar of the same till date. The petitioner has also pointed out regarding earlier litigations between the parties during mutation proceeding which were decided in favour of petitioner. The petitioner had also mentioned



filing of civil suit CS/131/17 with respect to suit land which was dismissed by the court of Sh. Ankur Jain, Ld. ADJ, Central Delhi, Tis Hazari Court, Delhi 05/09/2018 and another civil suit no, CS/SCJ/316/2019 pending in the court of Civil Judge Dwarka Court, Delhi with respect to same land and also about pendency of one RFA in Hon'ble High Court of Delhi.

3.The respondents have opposed the claim of the petitioner on the ground that the petitioner is not in physical possession of the suit land since the year 1998 and for recovery of possession of the land within 03 year from the date of commencement of the possession. The respondent had also made submission regarding decision of one order passed by Sh. Ankur Jain, ADJ, Tis Hazari Court, dated 03/09/2018 and pendency of one RFA in the Hon'ble High Court of Delhi. The respondent has also filed two applications under order 07 Rule 11 CPC for rejection of petition and another application under section 10 CPC for stay of suit/petition.”

Order dated 21.08.2023 passed by the Deputy Commissioner:

7.6.Regarding Possession of Suit land: It was argued that Smt. Manju Jain was in possession of suit property as the telephone connection stood in her name. It was stated that there was a telephone connection on the suit property in favour of Smt. Manju Jain but that the same was disconnected in December 2000. If she was in possession, then under no circumstances she would have allowed it to be disconnected. On the contrary Sh. Praveen Jain by way of evidence has proved that they are in exclusive possession of the suit property. The testimonies clearly shows that Parveen Jain is the member of Pushpanjali Farms Association and which has never been objected to by Smt. Manju Jain in the written statement it was clearly stated that she was not in possession of the suit property. Therefore it was incumbent upon her to have amended the suit and seek relief of possession. In the absence of same, bar under section 34 of the Specific Relief Act would clearly operate. In fact Smt. Manju Jain from day one knew that they are not in actual physical possession. It is for this reason



that the relief sought by them is "owner in possession" no simply declaration that she is the owner, it is the case of clever drafting this court fails to understand as to why such a relief was not sought. The only irresistible conclusion which can be drawn is that plaintiff did not want to pay the court fee on the market price of land. Moreover the relief of declaration is a discretionary relief. Plaintiff has also not come to the court with clean hands. The story of blank documents being used by Sh. Praveen Jain is completely unreliable and unrealistic. She has failed to plead the circumstances under which the documents were in power and possession of Sh. Praveen Jain. It appears that true facts were withheld from the court for the reasons best known to Smt. Manju Jain. At the same time, Sh. Praveen Jain has also not been able to prove the execution of family settlement and GPA by Smt. Manju Jain. Thus, in so far relief of declaration is concerned the same cannot be granted to Smt. Manju Jain. Accordingly this issue is partly decided in favour of the plaintiff and partly in favour of the defendant."

Order dated 15.02.2024 passed by learned Financial Commissioner:

"5. From the facts of the cases, it is seen that the core issue involved in all four cases is discontent between family members which resulted in creating third party interest in the impugned land in village Bijwasan. The recorded owners of suit land are Manju & Ramesh Jain. The suit land is in physical possession of Praveen Jain & Nirmal Jain who are brothers of Ramesh Jain. Praveen Jain was also constituted attorney of Manju Jain and executed five registered sale deeds on 03.06.1998. These sale deeds were challenged by Manju Jain before the Additional District Judge, Tis Hazaari, Delhi. There have been other civil suits between the parties. The ADJ vide order dated 05.09.2018 cancelled the sale deeds dated 03.06.1998 but Manju Jain was not granted prayer of possession of suit land. After disposal of the civil suit, Manju Jain and Ramesh Jain executed two registered sale deeds dated 26.04.2019 in favour of M/s. Tanishq Estate Pvt. Ltd. which was duly mutated in favour of the subsequent purchaser M/s. Tanishq Estate Pvt. Ltd. The subsequent purchaser filed application before the RA under Section 84 of the



Delhi Land Reforms Act, 1954 for ejectment of Praveen Jain & Nirmal Jain. Praveen Jain & Nirmal Jain also filed application under Order 7 Rule 11 read with Section 151 and Section 10 of the Code of Civil Procedure, 1908. The SDM vide order dated 04.02.2021 allowed the petition of M/s. Tanishq Estate Pvt. Ltd. and ejected Praveen Jain & Nirmal Jain.

6. Thereafter, Praveen Jain & Nirmal Jain filed three appeals before the District Magistrate challenging order dated 04.02.2021, Order dated 23.07. 2020 and order dated 10.10.2019 passed by the SDM. The District Magistrate vide common impugned order dated 21.08.2023 held that there are procedural defects in orders dated 23.07.2020 and 04.02.2021 and are bad in law and thus allowed the appeals, set aside the orders and remanded the matters to the RA to decide them afresh. However, the District Magistrate held that the order dated 10.10.2019 is valid and does not require any interference and appeal filed by Praveen Jain & Nirmal Jain was rejected.

7. Accordingly, all the parties i.e. M / s. Tanishq Estate Pvt. Ltd. as well as Praveen Jain & Nirmal Jain have approached this Court against impugned orders in separate appeals/ revision petition.”

The factual narration in the aforesaid three orders of the Department of Revenue clearly indicates that the disputes between the parties are hotly contested and are predicated on varying factual matrix.

14. It is trite that a Writ Court cannot decide disputed questions of facts and in the present case, it is apparent from the facts and orders that parties have decades old, hotly contested disputes which cannot be resolved by summary procedure by way of affidavits in writ jurisdiction and would have to be resolved by leading cogent evidence. This Court is fortified in its view by the judgment passed by this Court in **Harpati &**



Ors. Vs. State of NCT of Delhi & Ors. reported in **2023 SCC OnLine Del 4607**, wherein the learned Division Bench relied upon various judgements of the Supreme Court to hold as under:

17. It is settled law that a High Court should not exercise its jurisdiction under Article 226 of the Constitution of India when it raises disputed question of facts. The Hon'ble Supreme Court in the case of Chairman, Grid Corpn. of Orissa Ltd. (Gridco) v. Sukamani Das, (1999) 7 SCC 298 was dealing with the question of whether the High Court had made an error in entertaining a writ petition filed seeking compensation for the death of a person due to electrocution, which had allegedly been caused due to the negligence of the authorities. The Apex Court in the said case observed as under:

“6. In our opinion, the High Court committed an error in entertaining the writ petitions even though they were not fit cases for exercising power under Article 226 of the Constitution. The High Court went wrong in proceeding on the basis that as the deaths had taken place because of electrocution as a result of the deceased coming into contact with snapped live wires of the electric transmission lines of the appellants, that “admittedly/prima facie amounted to negligence on the part of the appellants”. The High Court failed to appreciate that all these cases were actions in tort and negligence was required to be established firstly by the claimants. The mere fact that the wire of the electric transmission line belonging to Appellant 1 had snapped and the deceased had come in contact with it and had died was not by itself sufficient for awarding compensation. It also



*required to be examined whether the wire had snapped as a result of any negligence of the appellants and under which circumstances the deceased had come in contact with the wire. In view of the specific defences raised by the appellants in each of these cases they deserved an opportunity to prove that proper care and precautions were taken in maintaining the transmission lines and yet the wires had snapped because of circumstances beyond their control or unauthorised intervention of third parties or that the deceased had not died in the manner stated by the petitioners. **These questions could not have been decided properly on the basis of affidavits only. It is the settled legal position that where disputed questions of facts are involved a petition under Article 226 of the Constitution is not a proper remedy.** The High Court has not and could not have held that the disputes in these cases were raised for the sake of raising them and that there was no substance therein. The High Court should have directed the writ petitioners to approach the civil court as it was done in OJC No. 5229 of 1995.”*

(emphasis supplied)

18. *The aforesaid judgment has been relied/reiterated by the Apex Court in S.P.S. Rathore v. State of Haryana, (2005) 10 SCC 1 wherein it observed as follows:*

“16. In Chairman, Grid Corpn. of Orissa Ltd. (Gridco) v. Sukamani Das [(1999) 7 SCC 298] the question which arose for consideration was, can the High Court under Article 226 of the Constitution award compensation for death caused due to



electrocution on account of negligence, when the liability was emphatically denied on the ground that the death had not occurred as a result of negligence, but because of an act of God or of acts of some other persons. The Court held that it is the settled legal position that where disputed questions of facts are involved, a petition under Article 226 of the Constitution is not a proper remedy. Therefore, questions as to whether death occurred due to negligence or due to act of God or of some third person could not be decided properly on the basis of affidavits only, but should be decided by the civil court after appreciating the evidence adduced by the parties. In T.N. Electricity Board v. Sumathi [(2000) 4 SCC 543] it was held that when a disputed question of fact arises and there is clear denial of any tortious liability, remedy under Article 226 of the Constitution may not be proper. The Court carved out exception to this general rule by observing that, it should not be understood that in every case of tortious liability, recourse must be had to a suit. When there is negligence on the face of it and infringement of Article 21 is there, it cannot be said that there will be any bar to proceed under Article 226 of the Constitution.”

(emphasis supplied)

19. Similarly, the Hon'ble Supreme Court in *Shubhas Jain v. Rajeshwari Shivam*, 2021 SCC OnLine SC 562 has held as under:

“26. It is well settled that the High Court exercising its extraordinary writ jurisdiction under Article 226 of the Constitution of India, does not adjudicate hotly disputed



questions of facts. It is not for the High Court to make a comparative assessment of conflicting technical reports and decide which one is acceptable.”

20. Subsequently, in *Union of India v. Puna Hinda*, (2021) 10 SCC 690, the Hon'ble Supreme Court has observed:

“24. Therefore, the dispute could not be raised by way of a writ petition on the disputed questions of fact. Though, the jurisdiction of the High Court is wide but in respect of pure contractual matters in the field of private law, having no statutory flavour, are better adjudicated upon by the forum agreed to by the parties. The dispute as to whether the amount is payable or not and/or how much amount is payable are disputed questions of facts. There is no admission on the part of the appellants to infer that the amount stands crystallised. Therefore, in the absence of any acceptance of joint survey report by the competent authority, no right would accrue to the writ petitioner only because measurements cannot be undertaken after passage of time. Maybe, the resurvey cannot take place but the measurement books of the work executed from time to time would form a reasonable basis for assessing the amount due and payable to the writ petitioner, but such process could be undertaken only by the agreed forum i.e. arbitration and not by the writ court as it does not have the expertise in respect of measurements or construction of roads.”

21. Recently, the Hon'ble Supreme Court in the case of *M.P. Power Management Co. Ltd. v. Sky Power Southeast Solar India (P) Ltd.*, (2023) 2 SCC 703,



while dealing with the issue of exercise of writ jurisdiction by a Court in matters arising out of a contract, has stated:

*“82.7. The existence of an alternate remedy, is, undoubtedly, a matter to be borne in mind in declining relief in a writ petition in a contractual matter. Again, **the question as to whether the writ petitioner must be told off the gates, would depend upon the nature of the claim and relief sought by the petitioner, the questions, which would have to be decided, and, most importantly, whether there are disputed questions of fact, resolution of which is necessary, as an indispensable prelude to the grant of the relief sought.** Undoubtedly, while there is no prohibition, in the writ court even deciding disputed questions of fact, particularly when the dispute surrounds demystifying of documents only, the Court may relegate the party to the remedy by way of a civil suit.”*

(emphasis supplied)

22. A reading of the aforesaid judgments makes it clear, that it is well settled proposition of law that when there are disputed question of facts involved in a case, the High Court should not exercise its jurisdiction under Article 226 of the Constitution of India. Particularly in cases where tortious liability and negligence is involved, it has been held that the remedy under Article 226 may not be proper. In the instant case, the relief of compensation sought by the petitioners is contingent upon the resolution of the disputed question of facts raised, and these questions cannot be adjudicated only on the basis of affidavits. In view of the aforesaid, it would not be appropriate for this Court to entertain the instant writ petition as there are disputed questions of fact involved, the



resolution of which is necessary, as an indispensable prelude to the grant of the relief sought.

23. The Petitioners are at liberty to take recourse to other alternate remedies available to them under the law.”

On the one hand, the petitioner did not assail the order dated 15.02.2024 of learned Financial Commissioner and on the other, is seeking indulgence of this Court under Article 226 of the Constitution of India to pass the direction of restitution. This Court under Article 226 of the Constitution of India would be precluded from considering such disputed questions of facts. Thus, the present petition may not be maintainable.

15. A perusal of the order dated 15.02.2024, particularly paras 8 to 13, it is apparent that after appreciating the judgements passed by this Court in ***Rajeev Shah (supra)***, ***Shweta Agarwal (supra)***, and ***Sh. Jitender (supra)*** which followed the ratio laid down in ***Mohinder Singh (supra)***, the learned Financial Commissioner had given sufficient time for the parties to approach the appropriate forum of law for redressal of their grievance, if any. It is in fact pertinent to note that in paragraph 13 of the order dated 15.02.2024, not only did the learned Financial Commissioner grant liberty to the parties, the learned Financial Commissioner had also given protection for the next 60 days from the date of the order to approach the Civil Court and simultaneously directed that no third party interest shall be created by the parties of the subject land.



16. A co-ordinate bench of this Court in ***Radiance Fincap (P) Ltd. v. State (NCT of Delhi)*** reported in **2023 SCC OnLine Del 3432** held as under:

“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.”

As such, following the judgement of the coordinate bench in ***Radiance Fincap (P) Ltd. (supra)***, this Court dismisses the present writ petition giving liberty to the parties to approach a competent Court of Civil jurisdiction for redressal of their grievances, if any.

17. The petition alongwith pending applications is dismissed with no order as to cost.

TUSHAR RAO GEDELA, J.

MARCH 14, 2024/ss