



2024:DHC:2026



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

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Judgment reserved on: 27.02.2024
Judgment pronounced on: 13.03.2024

+ W.P.(C) 5497/2023

KARAN LUTHRA

..... Petitioner

versus

GOVT. OF NCT OF DELHI THROUGH ITS SECRETARY
& ORS. Respondents

Advocates who appeared in this case:

For the Petitioner : Mr. Rajesh Yadav and Mr. Akshay Makhija, Senior Advocates with Mr. Adarsh Chamoli, Advocate.

For the Respondents : Mr. Avishkar Singhvi, ASC with Mr. Vivek Kr. Singh and Mr. Naved Ahmed, Advocates for R-1, R-3 and R-4.

Mr. Sanjay Kumar Pathak, Standing Counsel with Mr. Sunil Kumar Jha, Mr. M.S. Akhtar, Ms. Nidhi Thakur, Ms. Musarrat B. Hashmi and Mr. Mayank Arora, Advocates for R-2/LAC.

CORAM:

HON'BLE MR. JUSTICE TUSHAR RAO GEDELA

J U D G E M E N T

TUSHAR RAO GEDELA, J.

[The proceeding has been conducted through Hybrid mode]

1. The present petition has been filed under Article 226 of the Constitution of India, 1950, *inter alia*, seeking the following



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reliefs:-

“(a) Issue writ, direction, order in the nature of certiorari thereby setting aside the Respondent No.2’s decision dated 06.04.2023 of rejecting the Applications bearing No. 90580000006341 and 90580000006398 dated 24.11.2022 and 30.11.2022 respectively, for grant of NOC/ Land Status Report in respect of Subject Land;

(b) Issue a writ, direction, order in the nature of mandamus thereby directing Respondent No.4 to register the Sale Deed(s) of the Subject Land in favour of the Petitioner in view of deemed grant of NOC/ Land Status Report under Section 5(5) of Delhi Lands (Restrictions on Transfer) Act, 1972. Issue a writ, direction, order in the nature of mandamus thereby directing Respondent No. 2 and Respondent No. 3 to grant Land Status Report/ NOC on the Applications bearing No. 90580000006341 dated 24.11.2022 and No. 90580000006398 dated 30.11.2022 for transfer of the Subject Land in favour of Petitioner;

(c) Issue any other appropriate writ, direction or order as this Hon’ble Court deems fit and proper in the facts and circumstances of the case and to enable the registration of sale deeds in favour of the Petitioner”

2. The case of the petitioner shorn of unnecessary details is as under:-

2.1. 32 Asamis of Village Dera Mandi were granted bhumidhari rights (Ownership rights) by virtue of the order dated 24.06.1985 by the Revenue Assistant, Patiala House Courts, New Delhi, under the provision of Section 74(4) of the Delhi Land Reforms Act, 1954 (hereinafter referred to as “DLR Act”). The said order as per the petitioner did not contain any restriction or any condition in regard to transferability of the lands.

2.2. As per the petitioner, out of the aforesaid 32 bhumidhars, each of such six individuals executed three sale deeds transferring the ownership of their respective portions



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of land in favour of one Mr. Vinod Luthra, the brother of the petitioner by way of separate sale deeds on 05.03.1987, 12.03.1987 and 20.03.1987. It is claimed by the petitioner that the said sale deeds were registered after requisite NOC/permission was obtained from the authorities under the DLR Act. Likewise, a few more bhumidhars had also transferred the bhumidhari rights accruing to them under the order dated 24.06.1985 to Mr. Vinod Luthra.

2.3. The petitioner claims that Mr. Vinod Luthra further sold these lands by sale deeds dated 08.09.1998 through his Power of Attorney holder in favour of one M/s. Krishna Estate, Mr. Shalabh Nigam, Ms. Renu Nigam and Mr. Arun Kumar Saxena without the knowledge and consent of the petitioner. Aggrieved by such sale, the petitioner filed a civil suit bearing CS No. 51276/2016 (new number) on 25.02.2011 seeking declaration and cancellation of the sale deeds dated 08.09.1998 executed by Mr. Vinod Luthra.

2.4. While the suit was pending adjudication, the notification under Section 507(a) of the Delhi Municipal Corporation Act, 1957 (hereinafter referred to as “DMC Act”) was issued on 20.11.2019 urbanizing the entire lands pertaining to Village Dera Mandi. A circular bearing F.No.107/SDM-III(HQ)/LAND/2020/087592900/583 was issued on 04.02.2020 by the SDM notifying that in respect of land allotted under Section 74(4) of DLR Act, no sale transactions would be allowed in violation of the terms and conditions of allotment.



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2.5. It is stated by the petitioner that in respect of another parcel of land pertaining to Village Dera Mandi ad-measuring 51 bigha and 2 biswa belonging to the petitioner, a Land Status Report/ NOC (in short “LSR/NOC”) was issued by the Revenue Authorities on 27.05.2022 for purposes of further sale. The petitioner states that a reference was made before the District Magistrate (South) New Delhi, seeking cancellation of the LSR/NOC issued in respect of the land ad-measuring 51 bigha 2 biswa on a complaint by a third party. By the report dated 08.07.2022, legal opinion was tendered by the Legal Advisor (District South) whereby it was mentioned that the bhumidhari rights granted under the provisions of Section 74 of DLR Act, *vide* order dated 24.06.1985 was done without any restriction on transferability of the land in question.

2.6. In the C.S. No. 51276/2016, a settlement was arrived at between the parties and on that basis, the petitioner claims that a compromise decree was passed by the learned Civil Court on 21.07.2022. The petitioner claims that the petitioner was declared as the owner and actual purchaser of the entire land. By the order dated 01.08.2022, learned Civil Court had directed that the defendants therein would sign the applications for grant of LSR/NOC in favour of the petitioner to facilitate further transfer. In Ex. P. No.420/2022, the learned Executing Court appointed a Local Commissioner to apply for LSR/NOC for transfer of entire land in terms of the Settlement Agreement and Compromise decree dated



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21.07.2022 vide its order dated 31.10.2022.

2.7. Since the LSR/NOC application filed by the Local Commissioner was not processed by the authority within 30 days from the date of submission of the application, the petitioner claims that the said NOC in respect thereof would be deemed to have been granted in view of Section 5(5) of the Delhi Lands (Restrictions on Transfer) Act, 1972 (hereinafter referred to as “Land Restriction Act”).

2.8. The petitioner states that while preparing to get the sale deed registered on the deemed grant, the application No. 90580000006341 and 90580000006398 dated 24.11.2022 and 30.11.2022 respectively were rejected by the respondent No.2 on the ground that “*land is allotted under Section 74(4) hence LSR is not approved*”. Despite filing a representation on 07.04.2023, the respondent no.2 did not respond, leading to filing of the present writ petition.

CONTENTIONS OF THE PETITIONER

3. Mr. Rajesh Yadav, learned Senior Counsel appearing for the petitioner submits that the bhumidhari rights of the lands which are subject matter of the present petition, were granted to 32 individuals under the dated 24.06.1985 by the Revenue Assistant. He submits that by reading of the said order, it is clear that there were no restrictions or fetters on the further transfer of lands, and as such, it was an unconditional order. Learned Senior Counsel submitted that once the bhumidhari rights were transferred unconditionally to such individuals, the said individuals further transferred their rights of



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ownership to Mr. Vinod Luthra, the brother of the petitioner by virtue of registered sale deeds dated 05.03.1987, 12.03.1987 and 20.03.1987. These sale deeds were registered only after the concerned Revenue Authorities/LAC Authorities had issued LSR/NOC way back in the year 1987. Even the lands were mutated in the name of Mr. Vinod Luthra consequent upon the aforesaid transactions. Learned Senior Counsel contends that once the order under Section 74(4) of the DLR Act was passed without any conditions coupled with the registered sale deeds by virtue whereof the bhumidhars had transferred their rights upon the issuance thereof LSR/ NOC by the concerned authorities, that too in the year 1987, it does not lie in the mouth of the respondents, particularly respondent no.2 to refuse the same now on the ground of an objection under Section 74(4) of the DLR Act.

4. Learned Senior Counsel also submits that the suit bearing C.S. No. 51276/2016 filed by the petitioner claiming to be the owner and actual purchaser of the subject land resulted in a compromise decree dated 21.07.2022 being passed in favour of the petitioner. He submits that by virtue thereof, the *de facto* ownership of the petitioner crystallized into *de jure* ownership of the subject land. According to learned Senior Counsel, the only act required subsequently was to get the name of the petitioner entered into the documents so as to enable the petitioner to obtain LSR/NOC for further transfer. The learned Executing Court had, as a consequence of an application, appointed a Local Commissioner for the said purpose. Though the Local Commissioner had applied for the same, yet the impugned order rejecting the said applications was passed,



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ignoring the past record.

5. Learned Senior Counsel submits that such refusal is contrary to the law as settled by this Court in the judgment of ***U.S. Mishra and Anr. vs. Govt. of NCT of Delhi and Ors.*** reported in **2021 SCC OnLine 5323**. According to learned Senior Counsel, this Court while considering the restrictions in Section 33 of the DLR Act had juxtaposed the provisions of Section 31 to conclude that if there is no restriction or a condition for transfer mentioned in the order/allotment letter, the objections for refusal of NOC cannot be countenanced. To buttress the aforesaid argument, learned Senior Counsel refers to the Status Report of Tehsil (Mehrauli) in respect of Village Dera Mandi, Application No. 90580000006341 dated 24.11.2022, which is on record. He points out to the Column XI regarding if there is any violation of Section 33 of the DLR Act, the remarks column was in the negative. Same is the situation with Column IX in regard to violation of Section 81 of the DLR Act. It is only the Column X regarding whether the subject land falls under Section 74(4) of the DLR Act that the Revenue Authorities remarked in the affirmative. He further referred to the reports appended thereto of the Kanungo, Reader to the SDM, to submit that apart from the reference to the sale deed of 1998 registered in Mumbai in favour of M/s. Krishna Estate and others, there was no reference to the compromise decree passed by the learned Civil Court in favour of the petitioner.

6. Learned Senior Counsel submits that in respect of another parcel of land belonging to the petitioner pertaining to the same Village Dera Mandi, the very same Revenue Authorities in



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Application bearing 90580000003965, despite noting the objection under Section 74(4) of the DLR Act, had granted LSR/NOC. He submits that when the petitioner is the same, the lands also pertain to the same Village Dera Mandi, there is no logic or legal impediment, disentitling the petitioner for grant of LSR/NOC in respect of the subject lands. He also relies upon the judgment dated 29.04.2004 passed by learned Single Judge of this Court in W.P.(C) 8862/2003 captioned as “*Mr. Romesh Bhardwaj vs. The Lt. Governor of Delhi & Others*”.

7. That apart, learned Senior Counsel also submits that once the lands of Village Dera Mandi have been urbanized by notification dated 20.11.2019 under Section 507(a) of the DMC Act, the provisions of DLR Act cease to apply. He draws support from the judgment of the Supreme Court in ***Mohinder Singh (Dead) Through Lrs and Another v. Narain Singh and Others*** reported in **2023 SCC OnLine SC 261**.

8. Lastly, he submits that on the grounds of parity too, the petitioner cannot be refused issuance of LSR/NOC. As referred to above, learned Senior Counsel submits that when once the lands were already permitted to be transferred by issuance of LSR/NOC in the year 1987 coupled with the fact that the respondent no.2 having issued LSR/NOC in respect of another parcel of land belonging to the petitioner pertaining to Village Dera Mandi, there is no reason why the respondent no.2 could possibly refuse issuing LSR/ NOC in respect of the subject lands.

9. Learned Senior Counsel very strenuously argued that



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respondent no.2 - LAC has categorically admitted that the subject lands are not falling within the restrictions prescribed in the Land Restriction Act, and as such, even otherwise, the LAC has no locus to refuse issuance of LSR/NOC.

10. As such, he prays that the impugned email dated 06.04.2023 rejecting the Applications bearing No. 90580000006341 and 90580000006398 dated 24.11.2022 and 30.11.2022 respectively be quashed and set aside and simultaneously, respondent no.2 be directed to issue a proper and valid LSR/NOC.

CONTENTIONS OF RESPONDENT NO. 2

11. Mr. Sanjay Kumar Pathak, learned Standing Counsel appearing for the respondent No.2 – ADM/LAC (SOUTH), at the outset submits that there are no objections in respect of the provisions of Land Restriction Act, given the fact that the lands are neither notified for acquisition nor proposed to be notified for any land acquisition under the Land Acquisition Act, 1894 (hereinafter referred to as “LA Act”) or any other acquisition.

12. According to the learned Standing Counsel, this Court needs to consider the dispute in view of the provisions of Article 46 of the Constitution of India, 1950. He particularly draws attention of this Court to para Nos. 6, 8, 10 and 11 of the counter affidavit filed on behalf of respondent No.2, to submit that the subject lands are the assigned lands allotted by the State to landless, downtrodden and poor people of the society for their social upliftment and economic empowerment. He submits that the intention behind such allotment was to implement the policy of economic empowerment to do



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economic justice and assign lands to such persons to uplift them and to merge their economic status with the mainstream economic development of the country, as a whole. According to the learned Standing Counsel, the allotment of material resource of the country to the weaker sections was not for the purpose of permitting them to sell and come back on the roads again but to retain such allotment of land for generations, with an aim to augment their economic status. He submits that the lands which have been sold or sought to be sold are assigned lands belonging to the Government, and as such, the respondent No.2 is under a constitutional obligation to ensure that no such land is permitted to be sold contrary to the laudable provisions of Article 46 of the Constitution of India. In order to support his contentions, he relies upon the judgment of the Supreme Court in *Muralidhar Dayandeo kesekar vs. Vishwanath Pandu Barde and Anr.* reported in **JT (1995) 3 SC 563**, wherein it was held that assigned lands cannot be permitted to be sold or converted to non-agricultural use.

13. He submits that it is not disputed by the petitioner that these lands were assigned to the original asami under the provisions of Section 74 of the DLR Act and despite the fact that the asamis were granted bhumidhari rights under the provisions of Section 74 of the said Act, such sales were not only restricted but were actually prohibited. He submits that the contention of learned Senior Counsel that the order dated 24.06.1985 of the Revenue Assistant under Section 74(4) of the said Act, not containing any restrictions or fetters for further transfer of lands, would be inconsequential having regard to the nature of such grant. According to the learned



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Standing Counsel, such prohibition is inherent in the provisions of Section 74 of the said Act itself and even if an order passed under such provisions, does not contain written restriction, this Court would necessarily read such prohibition into the said order. Read as such, according to the learned Standing Counsel, the impugned rejection was well within the right authority and jurisdiction of the respondent No.2. Learned Standing Counsel relies upon the judgment of the Supreme Court in *State of Maharashtra v. Digambar*, reported in (1995) 4 SCC 683.

CONTENTIONS OF RESPONDENT NO. 4

14. Learned counsel appearing for respondent No.4 submits that the said respondent has a limited role with respect to the registration of the sale deed of subject land. It was submitted that the records of the subject lands are being dealt with by the LAC branch which falls within the ADM (South) and it is only the said Department, which could give the requisite information as to whether the subject lands are acquired or not. In any case, the respondent No.4 does not have the custody of the records of the subject land.

15. Learned counsel had however, submitted that irrespective of whether the land acquisition proceedings has lapsed or not, or that whether the subject lands are acquired or not, is immaterial inasmuch as, LSR/NOC in respect of a land, which has been converted from rural to urban is mandatory, as per the circular. He submits that the petitioner has never approached its office seeking LSR/NOC in regard to the subject land.

ANALYSIS AND FINDINGS

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By: VINOD KUMAR
Signing Date: 13.03.2024
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16. This Court has heard the arguments of Mr. Rajesh Yadav, learned Senior Counsel, Mr. Sanjay Kumar Pathak, learned Standing Counsel and Mr. Avishkar Singhvi, learned ASC, appearing for the respective parties, perused the voluminous records and considered the judgments that the parties relied upon.

17. From the arguments of learned counsel for the parties, it is clear that the questions for consideration are:

- (i) *whether the respondent No.2 has any right to refuse issuance of LSR/NOC in respect of subject lands? and;*
- (ii) *whether there is any material on record to sustain such objection under the Land Restriction Act?*
- (iii) *What would be the effect of a notification under Section 507(a) of the DMC Act, 1957?*

18. Since all the questions are inter-related, the same are considered together. Before advertng to the facts of the case, it would be relevant to consider the various provisions of the DLR Act, 1954, which would govern the transactions like the present one. The same are extracted hereunder:-

“Section 31, The Delhi Land Reforms Act, 1954

31. Interest of a Bhumidhar to be transferable.- The interest of a Bhumidhar shall be transferable subject to the conditions hereinafter contained.

Section 33, The Delhi Land Reforms Act, 1954

33. Restrictions on the Transfers by a Bhumidhar.

(1) No Bhumidhar shall have the right to transfer by sale or gift or otherwise any land to any person, other than a religious or charitable institution or any person in charge or any such Bhoodan movement, as the Chief Commissioner may by notification in the Official Gazette, specify, where as a result of the transfer, the transferor shall be left with less than eight standard acres in the Union Territory of Delhi:

Provided that the Chief Commissioner may exempt from the operation of this section, the transfer of any land made before the



1st day of December, 1958, if the land covered by such transfer does not exceed one acre in area and is used or intended to be used for purposes other than those mentioned in Clause (13) of Section 3.

(2) Nothing contained in Sub-section (1) shall preclude the transfer of land by a Bhumidhar who holds less than eight standard acres of land, if such transfer is of the entire land held by him;

Provided that such Bhumidhar may transfer a part of such land to any religious or charitable institution or other person referred to in Sub-section (1)

Explanation-For the purposes of this section, a religious or charitable institution shall mean an institution established for a religious purpose or a charitable purpose, as the case may be."

Section 74, The Delhi Land Reforms Act, 1954

Section 74 - Admission to land mentioned in sub-clause (iii) of clause (a) of section 6 or to waste land for reclamation. - (1) The Gaon Sabha shall have the right to admit any person as Asami to any land falling in any of the classes mentioned in sub-clause (iii) of clause (a) of section 6 where-

(a) the land is vacant land,

(b) the land is vested in the Gaon Sabha, or

(c) the land has come into the possession of the Gaon Sabha under section 72 or under any other provisions of this Act.

(2) In order to encourage the reclamation of waste land, the Gaon Sabha shall also have the right to admit any person as Asami on a five years lease to any land which forms part of the cultivable or uncultivable waste area of the village, not included in holdings, which are vested in the Gaon Sabha under section 7, but which do not fall in any of the classes mentioned in sub-clause (iii) of clause (a) of section 6.

(3) The Asami shall have the right to hold the land for the period of five years at a rate of rent, which shall not be more than 50 per cent. of the prevailing rate of rent of the village, payable for the land.

(4) At the end of five years, the Gaon Sabha shall report to the Revenue Assistant the extent to which reclamation has been made. The Revenue Assistant shall, after necessary enquiry and after hearing the Asami, either order the termination of the lease and his ejection if there has been no reclamation or extend his lease for another period of two years. If, however, the land has been duly reclaimed during the period of five years or the extended period, the Revenue Assistant shall direct the Gaon Sabha to admit the Asami as Bhumidhar under section 73. The Asami on his admission



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as Bhumidhar shall be liable to pay such land revenue as shall be equal to 50 per cent of the rent calculated at the prevailing village rate of rent together with cesses and local rates, but he shall not be liable to pay any compensation.”

19. The rights of an asami to seek the status of a bhumidhar, is governed by the provisions of Section 74 of the DLR Act. According to the said provisions, in order to encourage the reclamation of waste land, the Gaon Sabha would have the right to admit any person as an asami on a five years lease to any land, which forms part of the cultivable or un-cultivable waste area of the village; the asami would have a right to hold the land for the period of five years at a rate of rent which shall not be not more than 50% of the prevailing rate of rent for the village, payable for the land; at the end of five years, the Gaon Sabha would report to the Revenue Assistant, the extent which reclamation has been made, who would after inquiry have the power to direct the Gaon Sabha to admit the asami as bhumidhar under Section 73 of the DLR Act. The said conferment of status of bhumidhar would be further subject to Sections 31 and 33 of the Act. By virtue of Section 31, the interest of the bhumidhar could be transferred subject to the conditions in Section 33. According to Section 45, the transfers made in contraventions of the Chapter III of the DLR Act, would be considered as void.

20. In the aforesaid context, after examining the various provisions, which are relevant, it appears to this Court that there are restrictions in place regarding transfer of lands by the bhumidhars, however, there is no provision completely prohibiting such transfers. The same is manifest from reading Section 31, which



permits transfer of interest of bhumidhar, subject to certain conditions. Those conditions are stipulated in Section 33 of the DLR Act. This Court is fortified in its view by the ratio laid down by the Co-ordinate Bench of this Court in *U.S. Mishra (supra)*. The relevant para of the same is extracted hereunder :-

“6. The Court notes that while further provisions regulating the creation of mortgages, letting of land, lease or exchange stand incorporated, restrictions on transfer stands controlled solely by Section 33. At least learned counsel for the respondents could not draw the attention of the Court to any other provision under the 1954 Act which may have placed a restriction on transfer. The Court notes that the respondents, even otherwise, do not place the refusal NOC on the ground that any of the restrictions contemplated under Section 33 would stand attracted. Consequently, the Court finds itself unable to sustain the objection as taken by the respondents herein.

7. The reliance placed by the respondents on the decision of the Supreme Court in Murlidhar Dayandeo Kesekar v. Vishnu Pandu Barde² is clearly misconceived. Murlidhar was dealing with a challenge to the restriction imposed upon members of the SC/ST communities and landless persons from transferring land allotted to them under beneficial statutory provisions. The constitutional validity of those restrictions was upheld. It was, however, observed in paragraph 22 of the report that the question which would have to be answered in such situations would be “whether such alienation is void under any law or violates provisions of the Constitution and whether permission could be legitimately given”. The respondents have woefully failed to prove that the proposed alienation would be in violation of any provision of the 1954 Act. That the same is a valid piece of legislation is also not disputed. A legitimate reason to refuse, undisputedly, must be founded in law.”

21. This Court shall now apply the aforesaid provisions to the facts of the present case.

22. It is undoubted that *vide* the order dated 24.06.1985, 32 asamis were granted bhumidhari rights under Section 74(4) of the DLR Act. It is also clear from a reading of the said order that there are no restrictions or fetters mentioned therein regarding further



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transfer of the bhumidhari rights. This issue gets further fortified by the fact that in the year 1987, the requisite LSR/NOC was issued by the respondent No.2 in favour of such bhumidhars to transfer their interest in the various parcels of land to one Mr. Vinod Luthra, the brother of the petitioner. In pursuance whereof, the sale deeds dated 05.03.1987, 12.03.1987 and 20.03.1987 were permitted to be registered and the interest of some of the bhumidhars was permitted to be conveyed to the brother of the petitioner, i.e., Mr. Vinod Luthra. These are undoubted and uncontroverted facts. Learned counsel appearing for the respondents could not bring on record anything to controvert the aforesaid facts.

23. The petitioner had challenged the transfer sought to be affected by the brother of the petitioner, namely, Mr. Vinod Luthra, in favour of the M/s. Krishna Estates and others sought by way of a sale deed registered in Mumbai, by filing a suit seeking declaration and cancellation of such sale deeds. The said suit bearing C.S. No. 51276/2016 was decreed on 21.07.2022 in favour of the petitioner on the basis of compromise/settlement deed. It was on the strength of such decree as also the subsequent order passed by the learned Executing Court in Ex. P. 420/2022, that the Local Commissioner had filed application seeking LSR/NOC in respect of the subject lands for further sale to the intending purchaser. These applications were rejected by the impugned email dated 06.04.2023.

24. Another relevant aspect for the consideration of this Court is the submission that the petitioner was permitted to transfer/ execute sale deeds in respect of another parcel of land pertaining to the same Village Dera Mandi by the respondent No.2. It is intriguing to



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note that despite the noting that the subject land (similar to present parcel of land) falls under Section 74(4) of the DLR Act, the respondent No.2 had issued LSR/NOC in respect thereto. So far as the violation under Sections 33 and 81 of the DLR Act is concerned, the remarks were answered in the negative. In contradistinction to the said permission, it is relevant to note that in the Status Report of Tehsil Mehrauli regarding the applications on subject lands, the remarks column regarding objections under Sections 33 and 81 is concerned, the same are remarked in the negative. Whereas, in respect of whether the subject land falls under Section 74(4) of the Act is concerned, the same is in the affirmative. It is pertinent to note that in the remarks column though, there is a mention of the sale deeds of the year 1998 registered in Mumbai, however, there is no reference to the compromise decree dated 21.07.2022 declaring the petitioner as owner and actual purchaser of the subject lands.

25. Equally notable is a fact that there is no reference to the earlier LSR/NOC of the year 1987 for the very same subject lands. This error by the respondent No.2 would be pivotal to the outcome of the present case. In that, once a particular parcel of land has already been issued LSR/NOC by the respondent No.2 way back in the year 1987 when the lands were actually agricultural in nature, then in the year 2022 when applications were made in respect of the subject lands, the respondent No.2 was obligated only to consider whether in the interregnum, any notification under the LA Act had been issued or the lands were actually acquired. However, there is no reference to the earlier LSR/NOC of the year 1987 at all in the



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Tehsildar's Report. So far as the provisions of LA Act or Land Restriction Act is concerned, learned Standing Counsel for respondent No.2 had fairly conceded that there are no such acquisition proceedings pending or acquisition proposed in respect of the subject lands.

26. At this juncture, it would also be relevant to consider the fact that in the order passed by the Revenue Assistant on 24.06.1985, neither any restrictions or fetters were foisted upon the then bhumidhars nor have the respondents been able to demonstrate or establish to the contrary. In the absence whereof, it is well nigh impossible for this Court to conclude that any provision of DLR Act would create an impediment to seeking LSR/NOC in respect of the subject lands.

27. Having regard to the aforesaid factual conspectus and uncontroverted position, this Court fails to see as to on what grounds the respondent No.2 could resist issuance of LSR/NOC.

28. This Court would now proceed to also consider the dispute from the point of view of the respondent No.2. Learned Standing Counsel had vehemently predicated his arguments on the violation of provisions of Article 46 of the Constitution and supported the same by reference to the assignment of subject lands under the 20 Point Programme by the Government to landless persons. The object behind Article 46 is undoubtedly laudable and for the economic upliftment and societal amelioration of the poor and landless citizens of India. However, from the documents on record, it appears that grant of status of bhumidhar on the individual asami



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in the year 1985 and subsequent transfer of interest by the original bhumidhars to Mr. Vinod Luthra in the year 1987 was within the provisions of DLR Act. In other words, the exercise of power for grant of LSR/NOC was under a law valid as per the Constitution of India. Coupled with the fact that it was the very same respondent No.2 which is stated to have issued LSR/NOC in the year 1987 to such bhumidhars to effect registered sale deeds in favour of brother of the petitioner. As such, the objections raised by learned Standing Counsel on the anvil of Article 46 of the Constitution of India, does not appear to be legally tenable.

29. That apart, this Court sees no reason, much less any cogent reason as to why and on what grounds the petitioner has been refused LSR/NOC particularly, when the very same respondent No.2 had actually granted LSR/NOC in respect of another parcel of land belonging to the petitioner pertaining to the very same Village Dera Mandi. This is not to say that the respondent No.2 does not have any legal obligation to comply with the requirements of law. It is of course the obligation of the respondent No.2 to consider all such applications, however, the same needs to be exercised in a more judicious manner. The same cannot be mechanical, more so, in situations like the present case.

30. It is also relevant to note that the Village Dera Mandi was urbanized *vide* the Notification dated 20.11.2019 under Section 507(a) of the DMC Act. There is no doubt that from the time the notification is effected, the provisions of the DLR Act would cease to apply to such urbanized areas, this read with the ratio laid down by the Supreme Court in *Mohinder Singh (Supra)*, makes it amply



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clear that the Revenue Authorities do not have any jurisdiction over such lands. What is to be kept in mind is the fact that the objection has not been raised by the Revenue Authorities but by the respondent No. 2 – LAC. Even the respondent No.2 has denied the permission of LSR/NOC on the basis that there is an objection under Section 74(4) of the DLR Act. There is nothing on record to show as to what objection in respect of the subject lands is within the purview of Section 74(4) of the DLR Act. In the absence of any cogent or relevant material on record, this Court is unable to appreciate the objections in this regard.

31. Apart from the aforesaid, another objection was taken by the learned Standing Counsel for respondent No.2 in regard to an efficacious and alternate remedy being available to petitioner under Section 6 of the Land Restriction Act against the rejection of the application seeking LSR/NOC, and as such, the present writ petition is not maintainable. In regard to the said objection, this Court considers that the same is liable to be rejected. This is for the reason that it has been candidly admitted by the learned Standing Counsel himself that the subject lands are not the subject matter of either any acquisition or even a proposed acquisition, and as such, the issue of an alternate efficacious remedy being available, would not preclude the petitioner from maintaining the present petition. Even otherwise, it cannot be disputed that the subject lands have neither been acquired nor proposed to be acquired, meaning thereby that the restrictions contained in the Land Restriction Act, would not be applicable to the facts of the present case.

32. In view of the aforesaid, this Court is of the considered



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opinion that the applications bearing Nos.90580000006341 and 90580000006398 have been wrongly rejected. Resultantly, the respondent No.2 – LAC is directed to grant the requisite LSR/NOC to the petitioner within 2 weeks, in view of the observations made hereinabove.

33. In view of the above, the present petition is disposed of with no order as to costs.

TUSHAR RAO GEDELA, J.

MARCH 13th, 2024
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