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

+ W.P.(C) 5175/2024 & CM APPL. 21170/2024, CM APPL.
21171/2024

JAGMAL SINGH

..... Petitioner

Through: Mr. Rajiv Yadav, Advocate

versus

GOVT OF NCT DELHI AND OTHERS

..... Respondents

Through: Mr. Anupam Srivastava, ASC
(GNCTD) with Ms. Anushka
Bhatnagar, Advocate for R-1 & R-2

CORAM:

HON'BLE MR. JUSTICE TUSHAR RAO GEDELA

ORDER

09.04.2024

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(The proceeding has been conducted through Hybrid Mode)

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

“i. Issue a writ of certiorari, or appropriate writ or order to set aside and quash the impugned order dated 31/08/2023 passed by the Financial Commissioner Delhi, in Case No. 237/2022 titled as ‘Jagmal Singh Versus GNCTD & Ors’ AND impugned order dated 22/04/2013 passed by the Revenue Assistant (Kapashera) in case no. 10/ SDM/RA/2012 under section 81 Delhi Land Reforms Act titled as ‘G.S. Kapashera Versus Jagmal Singh’ AND impugned order dated 05/05/2015 passed by the Deputy Commissioner (SW) in Appeal No. 30/2013 titled as ‘Jagmal Singh Versus G.S. Kapashera’, and the land bearing Khasra no. 34/1 (4-3) and 2/1 (3-6) total



being 7 bigha and 9 biswa situated in village Kapashera devested and reverted back to the petitioner.

ii. Issue a writ of certiorari, or appropriate writ or order, directing thereby the respondents to update the revenue record.”

2. Mr. Rajiv Yadav, learned counsel appearing for the petitioner submits that in the year 2013 in a proceedings under Section 81 of the Delhi Land Reforms Act, 1954, the Revenue Assistant had passed orders on incorrect facts and vested the subject land with the Gaon Sabha. An appeal was filed by the petitioner before the Deputy Commissioner in the year 2015 which was finally dismissed on 05.05.2015. He submits that the petitioner had carried the said challenge in the Revision Petition bearing case no.237/2022 captioned ***Jagmal Singh vs. Gaon Sabha, Kapashera*** before the Financial Commissioner. The Financial Commissioner passed the impugned order on 30.08.2023 based on the Notification dated 20.11.2019 issued under Section 507A of the DMC Act, 1957 urbanising the said Village Kapashera as also basing the impugned order on the judgment of the Supreme Court in ***Mohinder Singh (Dead) Through LRs and Anr. vs. Narain Singh and Ors*** reported in **2023 SCC OnLine SC 261**.

3. Learned counsel submits that the petitioner would be left without any remedy due to the orders passed by the Financial Commissioner and as such has approached this Court.

4. From the submissions as also from the record, it is apparent that post Notification dated 20.11.2019, the Village Kapashera has been



declared as an urban area and as such, the provisions of DLR Act, 1954 would cease to apply. That apart, keeping in view the ratio laid down by the Supreme Court in *Mohinder Singh (Dead)* (*supra*), it is also apparent that the pending proceedings, if any, would become non est in law.

5. In view of the aforesaid and keeping in view of the ratio laid down by a coordinate bench of this Court in *Radiance Fincap (P) Ltd vs. State (NCT) of Delhi* reported in 2023 SCC OnLine Del 3432 and *Praveen Jain vs. Financial Commissioner & Ors*, W.P.(C) 3827/2024 of this Court, the parties cannot be left without a redressal mechanism.

6. In that view of the matter, the petitioner is at liberty to approach the learned Civil Court of competent jurisdiction for appropriate orders in accordance with law.

7. The Civil Court shall take consideration of the pending civil proceedings both before the Deputy Commissioner and appellate proceedings right upto the filing of the present writ petition, giving benefit of Section 14 of the Limitation Act, 1973, if so required.

8. The petition alongwith pending application is disposed of accordingly.

TUSHAR RAO GEDELA, J

APRIL 9, 2024/ns