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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ LPA 295/2024 & CM APPL. 21816/2024, CM APPL. 21817/2024

SUBNAM GUPTA (SABNAM GUPTA) Appellant
Through: Mr. Ashok Goyal, Mr. Parikshit,
Advts.

versus
UNION OF INDIA & ORS. Respondent
Through: Mr. Satya Ranjan Swain, Sr. Panel
Counsel with Ms. Kautilya Birat, GP.
Ms. Prabhsahay Kaur, SC, DDA with
Ms. Pragati Singh, Adv for DDA.

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Date of Decision: 15th April, 2024

CORAM:
HON'BLE THE ACTING CHIEF JUSTICE
HON'BLE MS. JUSTICE MANMEET PRITAM SINGH ARORA

JUDGMENT

MANMOHAN, ACJ : (ORAL)

CM APPL. 21816/2024 (for exemption)

Allowed, subject to all just exceptions.

Accordingly, the present application stands disposed of.

LPA 295/2024 & CM APPL. 21817/2024

1. The present Letters Patent Appeal has been filed under Clause X of the Letters Patent of the then High Court of Judicature at Lahore, which stands extended to the High Court of Delhi, challenging the impugned judgment dated 07th March, 2024 passed in WP(C) No. 1445/2024, whereby the learned Single Judge dismissed the writ petition in *limine*, with liberty to the Appellant herein to take remedial measures as per law.
2. In the writ petition, the Appellant herein had challenged the order dated 11th August, 2023 passed by the Financial Commissioner in the appeal



filed under Section 64 of the Land Revenue Act, 1954 against the order dated 28th January, 1986 passed by the concerned Revenue Assistant, SDM ('SDM') under Section 81(2) of the Delhi Land Reforms Act, 1954 ('DLR Act').

Brief facts

3. The Appellant states that her mother i.e., Late Smt. Prem Lata is the owner of the property bearing no. 1182 (New Khasra No. 118/23/3) admeasuring area 0-2 Biswa ('subject property'). The said property is stated to have been purchased by Late Smt. Prem Lata in the year 1965 by a registered sale deed dated 04th January, 1965 from one Sh. Amin Lal.

4. The SDM on information received through Halqa Patwari dated 15th October, 1984, passed an order dated 28th January, 1986 under Section 81(2) of the DLR Act and vide the said order, the subject property was vested in Gaon Sabha Burari.

5. Late Smt. Prem Lata filed a suit for permanent injunction (No. 1164/2011/1988) against Mr. Bijender and Mr. Rajinder for restraining them from interfering in the construction, which was being raised by her over the subject property; and further restraining them from dispossessing her. The said suit for injunction was dismissed by the Trial Court vide judgment dated 14th January, 2013.

6. The Appellant states that a First appeal (RCA No. 16/2013) was filed against the said judgment of the Trial Court, which was dismissed vide judgment dated 28th July, 2015 relying upon the order dated 28th January, 1986 passed by the SDM. It is stated that a Regular Second Appeal (RSA 60950/2016) filed against the judgment of the first appellate court was dismissed as withdrawn, vide order dated 01st August, 2016.



7. The Appellant herein thereafter challenged the order dated 28th January, 1986 of the SDM before the Financial Commissioner by filing an appeal¹. The Financial Commissioner dismissed the said appeal vide order dated 11th August, 2023 and held that it has no jurisdiction to hear the appeal, in view of the notification dated 16th May, 2017 issued under Section 507 of the Delhi Municipal Corporation Act, 1957 ('DMC Act') declaring the rural areas of Village Burari to be urban area and in view of the judgment of the Supreme Court dated 14th March, 2023 titled as ***Mohinder Singh (Dead) Thr. LRs. & Anr. V. Narain Singh & Ors.***². The Financial Commissioner granted relief to the Appellant to approach the *appropriate forum* of law for redressal of her grievance.

8. The said order of the Financial Commissioner was assailed in WP(C) No. 1445/2024, where by the learned Single Judge as well dismissed the writ petition in *limine* and granted the liberty to the Appellant herein to take remedial measures before an *appropriate forum*.

Arguments of the Parties

9. Learned counsel for the Appellant states that in the consolidation proceeding for Village Burari, which was conducted in the year 1986; no notice under Section 81-A of the DLR Act was issued to the Appellant and as per the Khatoni pemaish of the year 1980-81 of the Village, the mother of the Appellant was the owner of the property 118/23/3 admeasuring the area 0-2 biswas. He states that the Appellant also approached the Ministry of Housing and Urban Affairs, Union of India on 01st January, 2024 after dismissal of the appeal by the Financial Commissioner, however, no

¹ Case No.: 07/2018.

² 2023 SCC OnLine SC 261.



response has been received. He states that the Appellant has been non-suited by the Financial Commissioner and the learned Single Judge, leaving the Appellant remediless.

10. In reply, learned standing counsel for the Respondent Nos. 1 and 3 fairly state that there has been no adjudication of the claim of the Appellant on merits.

Analysis and Conclusion

11. Having heard learned counsel for the parties, we are of the considered opinion that the present appeal deserves to be allowed; and the order of the Financial Commissioner dated 11th August, 2023 needs to be set aside and the appeal to be restored to its original number for adjudication on merits.

12. It is a matter of record that the order of the concerned SDM dated 28th January, 1986 impugned in the appeal was passed prior to the urbanization of Village Burari. The notification under Section 507 (a) of the DMC Act of 1957 with respect to Village Burari was admittedly issued subsequently on 16th May, 2017. Therefore, the order dated 28th January, 1986 passed by the SDM was valid and is binding on all the parties unless set aside by a competent authority in accordance with law.

13. The effect of the issuance of a notification under Section 507(a) of the DMC Act is provided for in Section 150(3) of the DLR Act, wherein Section 150(3) (a) of the DLR Act provides that the Gaon Sabha constituted for the area shall stand dissolved and on such resolution all land belonging to the Gaon Sabha in the urbanized village shall vest in the Central Government. Significantly, Section 150(3)(d) of the DLR Act stipulates that all suits, prosecution and other legal proceedings which are instituted or which might have been instituted by or against Gaon Sabha may be continued or



instituted by or against the Union of India. Section 150(3) (d) of the DLR Act, 1954 is reproduced hereinbelow for ready reference:

“(3) If the whole of a Gaon Sabha area ceases to be included in rural areas as defined in the Delhi Municipal I Corporation Act, 1957, by virtue of a notification under ~ section 507 of that Act, the Gaon Sabha constituted for that area shall thereupon stand dissolved and on such dissolution,-

(a) all properties, movable and immovable, and all interests of whatsoever nature and kind therein including moneys held in Gaon Sabha Area Fund, vested in the Gaon Sabha immediately before such dissolution shall, with all rights of whatsoever description, used, enjoyed or possessed by such Gaon Sabha, vest in the Central Government;

.....

*(d) all suits, prosecutions and other legal proceedings instituted or **which might have been instituted by or against the Gaon Sabha** may be continued or **instituted by or against the Union of India;**”*

(Emphasis supplied)

14. The SDM vide impugned order dated 28th January, 1986 passed under Section 81-A of the DLR Act and consequently, the land vested in Gaon Sabha. In view of the notification issued under Section 507(a) of the DMC Act, the subject land stood urbanized and with the operation of Section 150(3)(a) of the DLR Act, the subject land stands vested in the Central Government. Since, the Appellant is aggrieved by the order dated 28th January, 1986, she has to necessarily challenge the said order or it shall bind her. Section 150(3) (d) of the DLR Act, expressly saves the right of the land owner to institute appropriate proceedings against the Central Government, since it has stepped into the shoes of Gaon Sabha.³

15. The dismissal of the appeal by the Financial Commissioner, as upheld by the learned Single Judge, renders otiose the provision of Section 150(3) (d) of the DLR Act. The Financial Commissioner failed to appreciate that

³ Sanvik Engineers India Pvt. Ltd. & Anr. v. GNCTD & Anr., 2022 SCC OnLine Del 360, Para 68.



Section 150(3)(d) of the DLR Act comes into operation only after a notification under Section 507 (a) of the DMC Act has been issued. The said provision has a salutary purpose of saving the rights and remedies available to the parties under the DLR Act for the impugned actions, which are originally taken under the said Act and are intended to be challenged by the aggrieved party.⁴

16. The reliance placed by the Financial Commissioner on the judgment of Supreme Court in **Mohinder Singh** (supra) is incorrect. In the said judgment the notification under Section 507(a) of the DMC Act, 1957 urbanizing the Village Samepur was issued on 23rd April, 1982. However, the respondents therein after purchasing the land by a registered sale deed on 04th May 1989, applied for mutation under the DLR Act, 1954 and the names of the respondents were mutated on 31st May, 1989. The appellants therein challenged the said mutation order by filing an appeal before the Financial Commissioner under Section 64 of the Delhi Land Revenue Act, 1954, which appeal was adjudicated by the Financial Commissioner [by its order dated 10th February, 1995] and Financial Commissioner set aside the mutation order dated 31st May, 1989 and further ordered that the land in dispute shall vests in Gaon Sabha. It was in these facts, the Division Bench of this Court held that after the urbanization of the Village vide notification on 23rd August, 1982, all the proceedings under the DLR Act, 1954 were non-est. This decision of the Division Bench was upheld by the Supreme Court and the relevant paras read as under:

“5. The Division Bench of the High Court returned a finding that once the notification dated 23rd April, 1982 has been published in exercise of power

⁴ Sanvik Engineers India Pvt. Ltd. & Anr. v. GNCTD & Anr., 2022 SCC OnLine Del 360, Para 72.



under Section 507(a) of the Act, 1957 which expressly urbanizes the subject land in question and brings within the scope and ambit of Act, 1957, it no more remains rural area thus, all proceedings under the Act, 1954 stand non est leaving the parties to agitate their claims/disputes before appropriate fora with a clarification that all the pleas in law shall remain available to the parties before the appropriate fora which may be adopted for redressal of grievance under judgment impugned dated 22nd November, 2012 which is a subject matter of challenge in appeal before us.

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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.

(Emphasis supplied)

17. However, in the facts of the case in hand, the impugned order of the SDM dated 28th January, 1986 was passed prior to the urbanization of Village Burari and therefore the said order is not non-est and continues to remain valid until set aside by a competent authority.

18. In view of the discussion herein above, we accordingly set aside the order of the learned Single Judge dated 07th March, 2024 and the order dated 11th August, 2023 passed by the Financial Commissioner and restore the Appeal case no. 7/2018 to its original number. The Financial Commissioner is directed to hear and decide the present appeal expeditiously, preferably within four months from the date of this order. It is made clear that we have not expressed any opinion on the merits of the appeal. The rights and contentions of all the parties are left open.

ACTING CHIEF JUSTICE

MANMEET PRITAM SINGH ARORA, J

APRIL 15, 2024/hp/sk