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

% Judgment delivered on: 24.05.2024

(63)

+ W.P.(C) 5500/2024

M/S SUKH SANSAR HOUSING PVT LTD THROUGH
ITS AUTHORISED REPRESENTATIVE Petitioner

versus

GOVERNMENT OF NCT OF DELHI THROUGH
DEPARTMENT OF REVENUE & ORS Respondents

(64)

+ W.P.(C) 5511/2024

M/S SOLACE HOUSING AND CONSTRUCTION PVT LTD
THROUGH ITS AUTHORISED REPRESENTATIVE Petitioner

versus

GOVERNMENT OF NCT OF DELHI THROUGH
DEPARTMENT OF REVENUE & ORS Respondents

Advocates who appeared in this case:

For the Petitioner : Ms. Archana Yadav, Mr. Pitamber Yadav, Mr. Binay Kumar Joshi and Mr. Sanjay Kumar Yadav, Advocates.

For the Respondent : Mr. Vishal Chanda, Advocate for Mr. Udit Malik, ASC for GNCTD



CORAM:
HON'BLE MR. JUSTICE TUSHAR RAO GEDELA

JUDGMENT

TUSHAR RAO GEDELA, J. (ORAL)

[The proceeding has been conducted through Hybrid mode]

1. These are the writ petitions under Article 226 read with Article 227 of the Constitution of India, *inter alia*, seeking following reliefs:

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“a) Pass an appropriate writ directing Respondent No. 2 to drop proceedings of case no. 261/RA/DC/20077- 78 titled as "Gaon Sabha Gadaipur Vs. Sukh Sagar Housing Private Limited" pending before it U/s 81 of DLR Act, 1954.”

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“a) Pass an appropriate writ directing Respondent No. 2 to drop proceedings of case no. 261/RA/DC/20075- 76 titled as "Gaon Sabha Gadaipur Vs. Solace Housing & Construction Private Limited" pending before it U/s 81 of DLR Act, 1954.”

2. According to the petitioner, on 25.07.2012, notice was issued under Section 81 of DLR Act, 1954 by the SDM. The said proceedings culminated in an order dated 03.04.2014 of the SDM dropping the proceedings against the subject land on the ground that the land was being primarily used for agricultural purposes only. The Gaon Sabha of Village Gadaipur went in an appeal before the Deputy Commissioner for setting aside the order dated 08.04.2014 sometime in the year 2013



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itself. The Deputy Commissioner (South) remanded the matter back to the SDM for proper adjudication *vide* order dated 16.12.2019. It is stated that on 25.09.2020, extraordinary gazette notification was issued by the Ministry of Housing & Urban Affairs, Delhi Division declaring Village Gadaipur as an urban area.

3. Consequent upon such Notification declaring the said Village as an urban area, the petitioner filed an application dated 26.10.2021 before the SDM seeking dropping of the proceedings of Case No.264/RA/DC/20077-78 captioned ***“Gaon Sabha Gadaipur vs. Sukh Sansar Housing Private Limited”*** which were pending under Section 81 of the DLR Act, 1954.

4. It is the case of the petitioner that since then no hearing has taken place on the said application till date constraining the petitioner to file the present writ petition.

5. Ms. Archana Yadav, learned counsel appearing on behalf of the petitioner draws attention of this Court to Annexure P/4, which is at page 30 of the present petition, and an application filed on behalf of the petitioner herein, seeking rejection/dismissal of the proceedings under Section 81 of the DLR Act, 1954 filed by Gaon Sabha of Village Gadaipur on the basis that the said land has been urbanised *vide* notification dated 25.09.2020.

6. Ms. Archana Yadav, learned counsel relies upon 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 particularly para 36 to submit that the proceedings pending before the Revenue Authorities, in case notification under Section 507(a) of the



DMC Act, 1957 has been issued, become *nonest* as the provisions of DLR Act, 1954, cease to apply to such lands.

7. Notice was issued on which the learned counsel appearing for the respondents sought time to take instructions.

8. Mr. Vishal Chand, learned counsel appearing on behalf of the respondents submits that the next date before the SDM has been fixed for 03.06.2024. He submits that further instructions are not available since the SDM is on Elections Duty.

9. This Court has heard the arguments of Ms. Archana Yadav, learned counsel appearing on behalf of the petitioner and considered the submission made by Mr. Vishal Chand, learned counsel appearing on behalf of the respondents.

10. It is not disputed by the petitioner that the proceedings under Section 81 of the DLR Act, 1954 were originally initiated on 23.07.2012. It is also not disputed by any of the parties that *vide* order dated 08.04.2014, the then SDM had dropped the proceedings under Section 81 of the DLR Act, 1954 *qua* the subject property, on being satisfied that the land was primarily was being used for agricultural activities.

11. From the documents on record, it appears that the Gaon Sabha of village Gadaipur preferred an appeal before the Deputy Commissioner against the order dated 08.04.2014 passed by the SDM dropping the proceedings under Section 81 of the DLR Act, 1954. The Deputy Commissioner *vide* his order dated 16.12.2019 set aside the said order of the SDM and remanded the matter back for *de novo* adjudication.

12. While the said proceedings under Section 81 of the DLR Act,



1954 after remand were pending before the SDM by the Notification dated 25.09.2020, the Village Gadaipur was declared as an urban area under Section 507(a) of the DMC Act, 1957.

13. An application was filed by the petitioner on 26.10.2021 seeking dropping of the proceedings under Section 81 of the DLR Act as referred to above on the basis that the Village Gadaipur has been notified as an urban area and the provisions of Section 81 of the DLR Act, 1954 would cease to apply. This argument of the petitioner is primarily based on the judgment of the Supreme Court in *Mohinder Singh (supra)*.

14. The judgment of the Supreme Court in *Mohinder Singh (supra)* so far as the issue of non applicability of DLR Act, 1954 post the issuance of Notification under Section 507(a) of the DMC Act, 1957 is concerned, there is no quarrel to that extent. It is a declaration of law that the moment the notification has been issued, the agricultural lands would thereafter be characterised as urban areas and the provisions of DLR Act, 1954 shall cease to apply. However, so far as the arguments regarding the proceedings itself becoming *nonest* in law is concerned, the Supreme Court in the said judgment was seized of a matter where the notification under Section 507(a) of the DMC Act, 1954 declaring those particular areas as urban, was issued sometime in year 1982. The proceedings under the DLR Act, 1954 were initiated subsequently sometime in years 1987-88. It was on that factual premise that the Supreme Court had held that the proceedings itself had become *nonest* in law having been initiated after the notification of urbanising the area, was issued.



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15. In the present case, the facts as obviating are not similar to those which were before the Supreme Court in *Mohinder Singh (supra)*.

16. Since the application seeking dropping of the proceedings is still pending adjudication before the SDM, it would be apposite to dispose of the present petitions with suitable directions.

17. Since the matter is stated to be listed before the SDM on 03.06.2024, this Court directs the SDM to take up the said application for consideration on 03.06.2024 and on subsequent dates as may be required to dispose of the same.

18. The said application shall in any case, be disposed of within a period of six weeks from 03.06.2024.

19. The SDM shall ensure that the petitioners are heard before the said application is disposed of in accordance with law. The order shall be furnished to the petitioners within one week of such disposal. Petitioners would be at liberty to challenge the same, should the need arise.

20. The petitions are disposed of with the above directions with no order as to costs.

TUSHAR RAO GEDELA, J

MAY 24, 2024

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