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

+ **W.P.(C) 6344/2024**

DHANRAJ SINGH AND ORSPetitioners

Through: Mr. Nishant Solanki, Advocate.

versus

UNION OF INDIA AND ORSRespondents

Through: Mr. Karn Bhardwaj, ASC with
Mr. Shubham Singh, Mr. Rajat Gaba and
Mr. Saurabh Dahiya, Advocates for Respondents
No.2, 5, 6 and 7.

Mr. Kunal Lakra, Ms. Saiba M. Rajpal, Advocates
with Mr. Rahul, Legal Assistant for Respondent
No.3/DDA.

Ms. Tajinder Viridi, Standing Counsel for
Respondent No.4/MCD.

CORAM:

HON'BLE MS. JUSTICE JYOTI SINGH

ORDER

04.12.2024

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1. This writ petition has been preferred on behalf of the Petitioners under Article 226 of the Constitution of India laying a challenge to order dated 06.01.2024 passed by Respondent No.6 with a further direction to the concerned Respondent to record the names of the Petitioners as Bhumidars in respect of their land and decide the application of the Petitioners under Section 11 of the Delhi Land Reforms Act, 1954 ('1954 Act') on merits.

2. Narrative of facts as brought forth in the writ petition is that before commencement of 1954 Act, ancestors of the Petitioners were the recorded owners as 'Khudkasht' of land comprised in Khasra Nos. 617, 620, 677,



713, 715, 133, 144, 169, 539, 624, 725, 771, 757, 790, 894, 239, situated in the revenue estate of Village Amberahi, Delhi. On 27.02.1952, consolidation of holdings commenced in the said village, where the abovesaid land was situated. On 07.05.1955, the land in Khasra No. 25/23(4-16), 24(4-16), 12/8(1-14), 13(5-04) and 18/5(4-08) ('subject land') was allotted to the ancestors of the Petitioners in the revenue estate of Village Amberahi, by the Consolidation Authorities in lieu of their abovesaid 'Khudkasht' land. On 29.07.1955, the consolidation proceedings were completed and in 1959, a general notification was issued by the Deputy Commissioner, Delhi to the effect that all the waste land at the time of commencement of 1954 Act would vest in Gaon Sabha of the area. The Revenue Authorities treated the subject land as a waste land and vested the same in Gaon Sabha area of village Amberahi.

3. Being aggrieved by the said notification, ancestors of the Petitioners filed a Civil Suit challenging the vesting order to the effect that the land vested in the Gaon Sabha was allotted to them during the consolidation proceedings in 1955 in lieu of the Khudkasht land held by them before the consolidation proceedings commenced. The Civil Court passed a decree holding that the subject land was not a waste land and was in holding of the ancestors of the Petitioners in the year 1953-54 and had been wrongly vested in the Gaon Sabha Amberahi, Delhi.

4. It is averred that the said decree became nullity and non-operative due to the judgment of the Supreme Court in *Hatti v. Sunder Singh, (1970) 2 SCC 841*, wherein the Supreme Court held that the Civil Court will have no jurisdiction to declare a person as the Bhumidar of the land. One of the ancestors of the Petitioners filed a petition under Section 11 of the 1954 Act



on 02.07.1973 seeking declaration of Bhumidari rights in the subject land, which was dismissed by the Revenue Assistant on 23.02.1981. First appeal against the said order was dismissed on 11.01.1982 by the learned Additional Collector and the second appeal also suffered the same fate.

5. Being aggrieved by these orders, ancestors of the Petitioners preferred W.P.(C.) No.3608/1982 praying for setting aside of order dated 14.05.1982, which was partially allowed on 02.08.2004 remanding the matter back to the SDM/Revenue Assistant and quashing the impugned order. It was further directed that the petition filed under Section 11 of the 1954 Act will be decided afresh by the Revenue Assistant and Petitioners will be granted a limited opportunity to lead evidence to prove the document being decision dated 29.07.1955 in repartition proceedings pertaining to consolidation and repatriation of land in Amberahi.

6. On 17.11.2004, late Chander Bhan, one of the Petitioners in the case made an application to the learned SDM/RA seeking restoration of the Original Petition under Section 11 of the 1954 Act and requested for an opportunity to lead evidence in terms of the order passed by this Court. Petitioner avers that by this time the village in which the subject land was situated was urbanised by a notification under Section 507(a) of the Delhi Municipal Corporation Act, 1957 ('1957 Act'). In light of this, learned SDM/RA by the impugned order dated 06.01.2024 dropped the proceedings on the ground that the 1954 Act had ceased to apply and he had no jurisdiction to enter into merits of the case.

7. Challenging the impugned order, learned counsel for the Petitioners submits that Petitioners are only seeking declaration of their Bhumidari rights in respect of the subject land, which was allotted to their ancestors in



lieu of consolidation of holdings which was the Khudkasht land of Petitioners before commencement of the 1954 Act. The finding in the impugned order that 1954 Act will no longer apply is wholly illegal and unjust more particularly in view of the fact that litigation was pending for almost four decades and this Court in 2004 had remanded the matter back to the Revenue Assistant/SDM despite the fact that the village in which the land was situated stood urbanised even at that stage. Though not pleaded, it is also argued that if the Court is not inclined to interfere with the impugned order on the ground that the Divisional Magistrate did not have jurisdiction, a direction be passed to Respondent No.3 to declare the Petitioners as Bhumidars of the subject land as the land now vests in the DDA, post the urbanisation.

8. Issue notice.

9. Learned counsels, as above, accept notice on behalf of the respective Respondents.

10. Respondents No.2, 5, 6 and 7, support the impugned order and contend that there is no legal infirmity in the said order in view of the judgment of the Supreme Court in *Mohinder Singh (Dead) Through LRs and Another v. Narain Singh and Others*, 2023 SCC OnLine SC 261, wherein the Supreme Court has held that once a notification is published in exercise of power under Section 507(a) of 1957 Act, provisions of 1954 Act cease to apply. Learned counsel for the Respondent DDA, on instructions, states that land has vested in MCD and not the DDA.

11. Heard counsels for the parties and examined their submissions.

12. It is an undisputed fact that the petition filed by the predecessors-in-interest of the Petitioners under Section 11 of the 1954 Act was initially



dismissed. First and second appeals against the said order were also dismissed. Challenge was laid to the dismissal of the petition before this Court and the matter was remanded to the Revenue Assistant/SDM for reconsideration permitting the Petitioners to lead limited evidence on the decision dated 29.07.1955 in repartition proceedings. When the matter came up for consideration before the learned RA/SDM on 06.01.2024, by the impugned order, the learned SDM held that in view of the urbanisation of the village in question and judgment of the Supreme Court in ***Mohinder Singh (supra)***, the subject property is excluded from application of the 1954 Act and the proceedings have become *non est* and lost their legal significance. Accordingly, the proceedings were dropped without going into the merits of the case.

13. From a reading of the impugned order, it is evident that the proceedings have been dropped by the learned SDM in light of the judgment of the Supreme Court in ***Mohinder Singh (supra)***, wherein the Supreme Court has held as under:

“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. There is no dispute that Village Amberahi was urbanised vide notification dated 24.10.1994. In order to establish their case under Section 11 of the 1954 Act, Petitioners were required to establish that the subject land formed part of their holdings post consolidation and that they were allotted the land in lieu of pre-consolidation holdings. In this backdrop, learned SDM observed that the documents furnished by the Petitioners



failed to establish the said link in favour of the Petitioners and since the village was urbanised, comments were sought from the DDA, which were never furnished. Learned SDM thereafter proceeded to examine whether the agricultural land continues to be governed by 1954 Act after the notification under 1957 Act and in this light referred to the judgment of this Court in ***M/s Shri Neelpadmaya Consumer Products Pvt. Ltd. v. Sh. Satyabir @ Satbir and Ors., 2016 SCC OnLine Del 761***, wherein it was held as under:

“21. A reading of the later part of sub-section (13) of Section 3 of the Act shows that the land which is the subject matter of the Act would no longer be the subject matter of the Act if there is issued a notification in the official Gazette that the land which was the subject matter of the Act is an acquisition to the Delhi town and New Delhi town. Delhi town and New Delhi town as the definitions thereof show that the areas which are included in a municipality or a cantonment area or New Delhi Municipal Council area etc. are excluded from the scope of the Act. Putting it in another word, areas which would fall under the municipalities i.e. urbanized areas or areas to be developed as an urban area were excluded from the purview of the Act.. ”

15. Relying on the judgment in ***Mohinder Singh (supra)*** as well as judgments of this Court in ***Smt Indu Khorana v. Gram Sabha & Ors, 2010 SCC OnLine Del 1334***, and ***Swaran Lata & Ors Vs. Shri Kulbhushan Lal & Ors, 2014 SCC OnLine Del 499***, learned SDM dropped the proceedings under Section 11 of the 1954 Act in light of urbanisation of village Amberahi. As rightly contended by Respondents No.2, 5, 6 and 7, once the village in which the subject land is situated stands urbanised, no infirmity can be found with the decision of the learned SDM dropping the proceeding under Section 11 of 1954 Act, as the said Act has ceased to apply and as held by the Supreme Court in sequel thereto, the proceedings have become *non est* and lost their legal significance.



16. Accordingly, this writ petition is dismissed. However, Petitioners are at liberty to take recourse to appropriate remedies before the appropriate Forum and/or to make representation to DDA and/or MCD in this behalf since at this stage, neither of the authorities are able to shed light on the vesting of the land post urbanisation of the village in question.

JYOTI SINGH, J

DECEMBER 4, 2024
B.S. Rohella