



2024:DHC:5671



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

% **Date of order: 10th July, 2024**

+ **C.R.P. 46/2018 & CM APPL. 9876/2018**

SHANTI DEVI

.....Petitioner

Through: **Mr. Rajesh Kumar, Attorney of the
petitioner in person**

versus

DELHI DEVELOPMENT AUTHORITY AND ORS

.....Respondents

Through: **Ms. Shobhana Takiar, Standing
counsel for DDA with Mr. Kuljeet
Singh, Advocates for DDA
Ms. Monika Arora and Mr.
Subhrodeep Saha, Advocates for
MCD**

CORAM:

HON'BLE MR. JUSTICE CHANDRA DHARI SINGH

ORDER

CHANDRA DHARI SINGH, J (Oral)

1. The instant revision petition under Section 115 of the Code of Civil Procedure, 1908 has been filed on behalf of the petitioner/revisionist seeking the following reliefs:

“a. Allow the present petition and set aside/quash the Impugned Order/Judgment dated 15.11.2017 passed by Shri Sanjay Kumar, Ld. Additional District Judge - 02, West District, Tis Hazari Courts, New Delhi in MCA No. 04/17/16 &



2024:DHC:5671



New No. 09/17 in Suit No. 129/2016 declining/ refusing application under Order 39 Rule 1 & 2.

b. Grant an order of interim injunction / status quo till the culmination of the Suit No. 129/2016, pending adjudication before the Civil Judge, Tis Hazari Courts, New Delhi.

Pass any order and direction as the Hon'ble Court may deem fit in the light of the aforesaid facts and circumstances of the dispute."

2. It is the case of the revisionist that the predecessor-in-interest namely Shri Bodh Raj, who is the father-in-law of the revisionist, migrated from Pakistan to India during the country's partition in the year 1947 and had subsequently, taken possession of a vacant land admeasuring 200 sq. yds., situated Opposite S and T Block, adjacent to Ganda Nallah, West Patel Nagar, New Delhi (hereinafter as the 'suit property').
3. Thereafter, the predecessor-in-interest initially started a business of diary and bakery on the suit property, along with his son Late Shri Kundan Lal, which acquired registration certificate under Delhi Shops and Establishment Act, 1954 and later started his own coal depot on the suit property, under the name of M/s Bodh Raj Coal Depot.
4. The North Delhi Municipal Corporation (hereinafter as the 'respondent no. 3') started levying license fee/ tehbazari on the predecessor-in-interest regarding the coal depot, from the year 1970.
5. With the demise of Sh. Bodh Raj on 4th August, 1992 and his wife, Smt. Prabati, on 2nd April, 1995, on whose name the tehbazari was initially mutated, all other successors have relinquished their right, interest and/or claim on the coal depot, in favour of the revisionist. The tehbazari rights



2024:DHC:5671



were mutated in the name of the revisionist by the respondent no. 3 and since then, the coal depot was run by the revisionist.

6. The Government of India (hereinafter as the 'respondent no. 2') with consultation of the Ministry of Works Housing & Urban Development, Land and Development, released office orders dated 27th September, 1966 (hereinafter as the '1966 Policy') and 23rd September, 1969 (hereinafter as the '1969 Policy'), wherein the former assures that the fuel depots existing on the government land shall not be treated as unauthorised occupants, while the latter directs that the said fuel depots which have been in operation since before 1st July, 1960, will be either regularised or an alternative site will be allotted. However, in the year 1982, irrespective of these policies of the respondent no. 2, the suit property along with the adjoining property were transferred to the Delhi Development Authority (hereinafter as the 'respondent no. 1') by respondent no. 2 via Ministry of Supply and Rehabilitation (Department of Rehabilitation). Thereafter, the Government of NCT vide an office order bearing F.No. 3(4)/2006/F&S/P&C – 4557 dated 10th April, 2008 decontrolled the sale of coal. In accordance with the said policy, the respondent no. 3 promulgated a policy circular bearing No. AO/CL&EC/2011/87 dated 6th July, 2011 (hereinafter as the '2011 Policy'), wherein the tehbazari holders were offered an alternative site, preferably near their existing coal depots as the business of coal is no longer permissible.

7. Accordingly, a show cause notice dated 11th November, 2011 was issued to the revisionist by the respondent no. 3 and correspondingly, a reply



2024:DHC:5671



dated 16th November, 2011 was submitted by the revisionist. However, an order dated 16th November, 2011 was passed by the respondent no. 3 cancelling the license of the revisionist and directing the hand over the possession of the coal depot.

8. Aggrieved by the order passed by the respondent no. 3, the revisionist filed a Writ Petition bearing No. WP (C) No. 3455/2012 before this Court. However, vide a common order dated 27th July, 2015, the Court dismissed the writ petition.

9. While the writ petition was pending before this Court, respondent no. 3 sealed the coal depot of the revisionist.

10. Accordingly, the revisionist filed a Civil Suit bearing No. 129/2016 along with an application under Order XXXIX Rule 1 and 2 of the Civil Procedure Code, 1908 (hereinafter as the 'CPC'). However, the same was dismissed by the learned Senior Civil Judge (West), Tis Hazari Courts, Delhi vide its order dated 4th June, 2016 stating that in the event of non-contestation of the 2011 policy and the transfer of the suit property to the respondent no. 1, no *prima facie* case has been made out.

11. Challenging the dismissal of Civil Suit No. 129/2016, the revisionist filed an appeal bearing No. MCA No. 04/17/16 (New No. 09/17), which was also dismissed via an order dated 15th November, 2017 (hereinafter as the 'impugned order') by the learned Additional District Judge (hereinafter as the 'Appellate Court') on the grounds that no document has been placed before the Court to prove the revisionist's interest on the suit property. Being aggrieved by the same, the revisionist/petitioner has filed the instant petition.



2024:DHC:5671



12. Mr. Rajesh Kumar, power of attorney holder of the revisionist appeared in person before this Court. This Court has also taken the submissions and grounds for challenging the impugned order from the pleadings.

13. It is submitted on behalf of the revisionist that the learned Appellate Court erred in passing the impugned order as it failed to take into consideration the entirety of the facts and circumstances of the instant dispute.

14. It is submitted that in the impugned order, the learned Appellate Court did not appreciate the contents of the 1966 and 1969 policy documents which clearly establish the rights of the revisionist over the suit property and are entitled for the regularisation of the coal depot.

15. It is further submitted that the learned Appellate Court ignored the arbitrary practice of regularising coal depots of other parties, who are also similarly situated as the revisionist, without any uniform application of the 1966 and 1969 policy documents.

16. It is submitted that in 1961, assurance was given by the Ministry of Works, Production and Supply, on the account of the policy decision of the respondent no. 2, wherein it is stated that the displaced persons who have been in occupation of public land or have constructed on such land shall not be displaced unless an alternative land is provided to them.

17. It is submitted that the learned Appellate Court erroneously ignored that the 1966 policy crystallised the rights of the revisionist over the suit property and that the said policy of the respondent no. 1 prevails over the



2024:DHC:5671



2011 policy of the respondent no. 3.

18. It is also submitted that the collection of tehbazari by the respondent no. 3 is only pertaining to the trade in issue and the same has no bearing in granting any right, interest, or claim of the suit property to the respondent no. 3 and that the respondent no. 3 has no right to seal the premises of the coal depot. It is further submitted that the suit property along with the adjoining properties were transferred to respondent no. 1 by the Ministry of Rehabilitation, Land and Development Office under a package deal. These aforementioned submissions were not taken into consideration by the learned Appellate Court while passing the impugned order.

19. It is submitted that this Court in ***K.L. Harjai vs. Union of India and others, CW No. 3645/93*** has directed the respondents to consider the situation of the petitioner in light of the Memorandum dated 20th September, 1969 released by the Ministry of Family Planning and Urban Development, which proposed to allot an alternative site to the eligible squatters, who were there since before 1st July, 1960.

20. In view of the foregoing submissions, it is submitted that the instant petition may be allowed, and the impugned order may be set aside.

21. *Per contra*, the learned counsel appearing on behalf of the respondents vehemently opposed the instant petition submitting to the effect that the same is liable to be dismissed being devoid of any merit.

22. The learned counsel submitted that the learned Appellate Court rightly observed that the revisionist cannot place reliance on the 1961 policy as the revisionist failed to provide the existence and applicability of such written



2024:DHC:5671



assurance before the Court.

23. It is submitted that the learned Appellate Court was correct in mentioning that no documentary proof was placed on record with respect to the revisionist's predecessor-in-interest as a beneficiary of the 1966 and 1969 policies.

24. It is further submitted that when the suit property was transferred in the year 1982 by the respondent no. 2 to respondent no.1, no objection was raised by the revisionist, which shows that they were not aggrieved by the said transfer.

25. It is submitted that the learned Appellate Court certainly observed that no irreparable loss or injury will be suffered by the revisionist as the Government of NCT placed a ban on the coal business vide Order bearing F.No. 3(4)/2006/F&S/P&C – 4557 dated 10th April, 2008.

26. It is submitted that the learned Appellate Court has rightly pointed out that no policy has been issued by the respondent no. 1 with respect to the suit property, therefore, establishing no rights or interests of the revisionist over the suit property.

27. It is further submitted that the revisionist was given enough opportunities to prove his case over the suit property under the 1966 policy as well as through show cause notice dated 11th November, 2011 issued by the respondent no. 3, however, the same has not been utilised to prove or establish his right over the suit property.

28. It is submitted that the actions of the respondents cannot be categorised as arbitrary and illegal as the decisions are based on the



2024:DHC:5671



established policies, therefore, the respondents are well within their rights to act accordingly.

29. It is further submitted that no procedural or material irregularity was recorded by the learned Appellate Court in its impugned order and therefore, considering that this Court has limited jurisdiction in exercising revisional powers, the instant petition cannot be allowed by this Court.

30. Therefore, in view of the submissions made above, it is submitted that instant petition being devoid of any merits may be dismissed.

31. Heard both the parties and perused the records.

32. It is the case of the revisionist that the learned Appellate Court through its impugned order failed to appreciate the material placed on record, upholding the learned Trial Court's dismissal of the application under Order XXXIX Rule 1 and 2. It is the contention of the revisionist before this Court that the respondent no. 3 has failed to prove the right over the suit property, which has been in possession of the predecessor-in-interest of the revisionist since before 1st July, 1960 and that the respondent no. 3, under the garb of illegality, asked the revisionist to vacate the suit property and cancelled the tehbazari license as well. It is also submitted that the assurance was given by the respondent no. 1 via the 1961 policy, which was later supported by the policies of 1966 and 1969, thereby conferring the right of the revisionist over the suit property. Hence, it has been prayed to set aside the impugned order.

33. In rival submissions, it is submitted on behalf of the respondents before this Court that the impugned order was right in observing that the



2024:DHC:5671



revisionist failed to provide any proof regarding the right over the suit property. It is submitted that the revisionist failed to provide documentary evidence for claiming benefits under the 1966 and 1969 policies and that no objection was raised whilst the suit property was transferred by the respondent no. 2 to the respondent no. 1. It is further contended that the respondents have provided enough opportunities to the revisionist to furnish requisite proofs establishing the rights over the suit property, which the revisionist failed to do so. Hence, it has been prayed to set aside the instant petition.

34. Therefore, the question for adjudication before this Court is whether the learned Appellate Court erred in dismissing the application made under Order XXXIX Rule 1 and 2 of the CPC before the learned Trial Court.

35. Before going into the merits of the case, it is imperative for this Court to delve into the scope of Section 115 of the CPC, under which the revisionists have challenged the impugned order. The provision has been reproduced for reference hereunder:

“115.Revision.— [(1)] *The High Court may call for the record of any case which has been decided by any Court subordinate to such High Court and in which no appeal lies thereto, and if such subordinate Court appears—*

*(a) to have exercised a jurisdiction not vested in it by law, or
(b) to have failed to exercise a jurisdiction so vested, or
(c) to have acted in the exercise of its jurisdiction illegally or with material irregularity, the High Court may make such order in the case as it thinks fit:*

[Provided that the High Court shall not, under this section, vary or reverse any order made, or any order deciding an issue,



in the course of a suit or other proceeding, except where the order, if it had been made in favour of the party applying for revision would have finally disposed of the suit or other proceedings.]

[(2) The High Court shall not, under this section, vary or reverse any decree or order against which an appeal lies either to the High Court or to any Court subordinate thereto.

[(3) A revision shall not operate as a stay of suit or other proceeding before the Court except where such suit or other proceeding is stayed by the High Court.]

Explanation.— In this section, the expression “any case which has been decided” includes any order made, or any order deciding an issue in the course of a suit or other proceeding.]”

36. Upon perusal of the same, it is made out that Section 115 of the CPC invests the High Courts with the revisional powers thereby empowering it to exercise its supervisory power over the subordinate courts within its jurisdiction. However, it is most pertinent to note that the revisional powers conferred onto the High Courts under this provision allows the High Courts to exercise the superintendence power over the subordinate courts to keep them within the bounds of their jurisdiction.

37. The said provision enables the High Courts to call on record any case decided by any subordinate court to the High Court, in which no appeal lies to the High Court, to satisfy itself with three facets – (i) to have exercised a jurisdiction not vested in it by law; (ii) to have failed to exercise a jurisdiction vested in it by law; or (iii) to have acted in the exercise of its jurisdiction illegally or with material irregularity. In other words, this Court cannot interfere in revision except in the above-mentioned cases.



2024:DHC:5671



38. Therefore, this Court, having a limited jurisdiction under the said provision is not allowed to enter into the merits of the evidence, nor can it allow additional evidence and only needs to satisfy itself as to whether the requirements of law have been duly obeyed by the subordinate court and whether there arises any irregularity as to the failure or exercise of jurisdiction with respect to the order in question. Unless there is an error of law so apparent on the face of the record, or there is an error in exercise of jurisdiction by the subordinate court, the order made by the subordinate court ought not to be interfered.

39. At the outset, this Court deems it imperative to peruse the findings recorded by the learned Appellant Court in its impugned order, the relevant portion of which is as under:

“27. The appellant set out the case that predecessor of the appellant migrated from Pakistan and occupied site admeasuring 200 sq. yds., situated at Opposite S and T Block, adjacent to Ganda Nallah, West Patel Nagar, New Delhi and initially the predecessor of the interest appellant started a business of dairy and bakery and thereafter, started the trade of firewood and coal related items.

28. It is mentioned that in the year 1961, assurance was given by the Ministry of Works, Production and Supply on the basis of policy decision of Government of India that displaced persons without being authorized and who occupied public land or constructed any building shall not be removed unless alternate land is provided. However, no such written assurance filed on record. The appellant referred to a policy of Ministry of Works Housing and Urban Development, Land and Development Office dated 27.09.1966 and office memorandum dated 23.09.1969. However, there is nothing on record that the said



policy covered the appellant predecessor in interest. It is not disputed by the appellant that in the year 1982, the suit land was transferred to DDA by the Government of India, Ministry of Supply and Rehabilitation (Department of Rehabilitation) Union of India, Land and Development Officer, Ministry of Works and Housing. The appellant also referred to policy of Municipal Corporation of Delhi dated 06.07.2011 where it is alleged that site of coal depot on tehbazari were covered by the said policy with regard to the MCD lands.

29. It is admitted case of the appellant that he has no document to show the right, title or interest with respect to the suit property. There is no document on record to show that the appellant predecessor in interest was covered by the policy pertaining to the year 1969 and memorandum dated 06.07.2011. It is established on record that respondent no.1/DDA has not framed any policy with regard to tehbazari right or any other right with regard to the suit property since 1980. It is pertinent to mention here that the business of selling coal and related items has been closed by the Government of India in the year 1995. It is established on record that it is the policy matter of the DDA to continue tehbazari right or any other right in respect of the suit land to the occupants.

*30. The law is well established that the Court cannot interfere in the policy matter. Hence, in my considered opinion, the appellant has no prima facie right in respect of the suit land as the business of coal selling and related has already been banned by the Government of India. There is no document in favour of the appellant which creates any right, title or interest in respect of the suit land and more important is that there is no policy of the DDA in respect of the suit land to the occupants of coal depot. My view is further supported by the judgment of **MCD vs. Sadhna Grover in LPA NO.240/ 2006** has now coal business is not permissible as per law and rehabilitation by the concerned Government Department as per the policy. The*



2024:DHC:5671



appellant is also not having the balance of convenience because in the absence of policy of DDA, no licensee right or any other kind of right protected by the Court. The appellant is not going to suffer any irreparable loss or injury as the coal business has already been banned by the Government of India for the last about 25 years.

31. In view of my above observation, I find no error or illegality in the impugned order dated 04.06.2016 passed by Ld. Trial Court whereby the application under Order 39 rule 1 & 2 CPC was dismissed. Hence, I find no merit in the appeal and the same is accordingly dismissed.”

40. The learned Appellate Court, in its impugned order has taken consideration of the policies of 1966 and 1969, wherein occupants of the government land were not to be categorised as unauthorised and that the fuel depots on such lands to be either regularised or to be allotted an alternative site for the operation of the depots. However, the learned Appellate Court disregarded the rights of the revisionist over the suit property, as there is no document on record establishing the rights of the revisionist's predecessor-in-interest over the suit property as per the 1966 and 1969 policies. Therefore, the rights over the suit property cannot be determined in favour of the revisionist as per the said policies due to lack of documentary evidence.

41. It is further observed by the learned Appellate Court that the reliance placed by the revisionist on the 1961 assurance of the Ministry of Works, Production and Supply, for establishing an interest over the suit property is discarded as the revisionist failed to provide any document showcasing the written assurance of the said Ministry. Moreover, it was stated that the respondent no. 1 has not promulgated any policy with respect to the coal



2024:DHC:5671



depots on the suit property.

42. Additionally, it was observed that the revisionist raised no objection while the suit property has been transferred by the respondent no. 2 to the respondent no. 1. It is further observed that with the business of coal being banned in the country, the revisionist cannot suffer any irreparable loss.

43. Therefore, in view of the aforementioned reasoning, the learned Appellate Court is of the view that no *prima facie* case has been formed in determining the rights of the revisionist over the suit property.

44. As per the pleadings presented before this Court, the revisionist vehemently contended that the rights over the suit property has been crystallised by the 1961, 1966 and 1969 policies of the respondent no. 2 and that therefore, they are entitled to the regularisation of the coal depot. For the purposes of convenience, the 1966 policy is reproduced hereunder –

“On a survey of fuel depote in existence in a number of New Delhi localities it was that a number of these fuel depot existed on Govt. Land but the fuel depot holders concerned were paying teh-bazari to NDMC who had allotted the sites to them under the mistake belief that the land under the sites vested in the NDMC. The question, therefore, arose how to regularise the occupation of Govt. land by those fuel depot holders. It has been decided in consultation with the Ministry of Works Housing & Urban Development that these fuel depot holders should not be treated as unauthorised occupants, but they should be treated at par with temporary allottees and L&DO's should effect recoveries from, them with immediate effect at scheduled rate on account of occupation charge of these cites. As per the Tehbazari already collected by the NDMC in respect of these sites the committee should be asked to pass the collection to the L&DO's office.”



2024:DHC:5671



45. The 1969 policy of the respondent no. 2 is reproduced here below –

“The question of allotment of sites to be eligible fuel depot holders who are/were running fuel depots unauthorisedly on Govt. land had been under consideration of the Government for some time past and it has now been decided that alternative sites to such of the eligible squatters may be allotted subject to payment of damages in respect of the site which is/was in their unauthorized occupation and on their furnishing an affidavit to the effect that they were in non-authorised occupation of the site before 1st July, 1960 and that no alternative site in lieu of the site which is/was in their unauthorized occupation has/had been allotted to them by any other authorities viz. Delhi Development Authority/Delhi Admn./New Delhi Municipal Committee/ and Municipal Corporation of Delhi.

It is requested that the affidavit as stipulated above may please be furnished within one month from the date of issue of this memo to enable this office to determine finally your eligibility for allotment of alternative site and to allot an alternative site. In case the requisite affidavit is not received within the period stipulated above it shall be assumed that you are not interested in allotment of an alternative fuel depot site.

In that event action shall be taken for your removal from the site in your unauthorised occupation and recovery of damages.”

46. Based on the aforementioned policies, the revisionist submitted that that the coal depot has been in operation since before 1st July, 1960 and that they are entitled for regularisation of coal depot or for an allotment of an alternative site as per the 1969 policy. It is also the case of the revisionist that they cannot be treated as unauthorised occupants of the land as per the 1966 policy and the same policy in consonance with the 1969 policy, has



2024:DHC:5671



created rights in favour of the revisionist over the suit property.

47. After perusing the above policies, this Court is of the opinion that these policies are to be read as a whole and not as per the convenience of any party. Although the 1966 policy directed that the fuel depot holders on the government land are not to be treated as unauthorised, the policy when read as a whole, clarifies that only a temporary status has been granted to such fuel depot holders. In light of the same, the 1969 policy gave an opportunity to the temporary allottees to file an affidavit for allotment of alternative site.

48. As per material on record, no affidavit has been filed on record by the predecessor-in-interest under the 1969 policy, thereby, not utilising the opportunity conferred upon them by the 1969 policy. Additionally, the 1961 assurance has no credibility as no written assurance of the same has been submitted on record.

49. Moreover, it was admitted by both the parties that the tehbazari fee levied on the revisionist by the respondent no. 3 is with respect to the allowance of trade on the suit property and not in conferring any right over the suit property.

50. In the case of *Associated Hotels of India Ltd. vs. R.N. Kapoor, 1959 INSC 89*, the Hon'ble Supreme Court held that issuance of a license does not create any interest in the licensed property. The relevant paragraphs of the judgment are reproduced hereunder –

“32. ...Whereas s. 52 of the Indian Easements Act defines a licence thus :

"Where one person grants to another, or to a definite number of other persons, a right to do or continue to do in or upon the



Immovable property of the grantor, something which would, in the absence of such right, be unlawful, and such right does not amount to an easement or an interest in the property, the right is called a licence."

33. *Under the aforesaid section, if a document gives only a right to use the property in a particular way or under certain terms while it remains in possession and control of the owner thereof, it will be a licence. The legal possession, therefore, continues to be with the owner of the property, but the licensee is permitted to make use of the premises for a particular purpose. But for the permission, his occupation would be unlawful.*

It does not create in his favour any estate or interest in the property. There is, therefore, clear distinction between the two concepts. The dividing line is clear though sometimes it becomes very thin or even blurred. At one time it was thought that the test of exclusive possession was infallible and if a person was given exclusive possession of a premises, it would conclusively establish that he was a lessee. But there was a change and the recent trend of judicial opinion is reflected in Errington v. Errington [1952] 1 All E.R. 149, wherein Lord Denning reviewing the case law on the subject summarizes the result of his discussion thus at p. 155 :

"The result of all these cases is that, although a person who is let into exclusive possession is, prima facie, to be considered to be tenant, nevertheless he will not be held to be so if the circumstances negative any intention to create a tenancy. ""

51. It is imperative to mention that the licensee has a limited right to use the licensed property, while the same is in legal possession of the owner of the property. The licensee is permitted to use the licensed property only for a particular purpose and is not allowed to exceed the said limitation casted on



2024:DHC:5671



the licensee, therefore, not conferring or creating any interest or estate in favour of the licensee over the licensed property.

52. Although it is admitted by the revisionist that the tehbazari fee is only regarding the trade in issue, the revisionist has taken a different viewpoint that since the tehbazari fee is being paid, there lies an interest in the property. As per the ruling of the Hon'ble Supreme Court in ***Associated Hotels of India Ltd. vs. R.N. Kapoor (supra)***, it is safe to infer that a mere payment of the tehbazari fee does not confer any interest, right or title in the suit property.

53. Moreover, it is pertinent for this Court to mention the office order bearing F.No. 3(4)/2006/F&S/P&C – 4557 dated 10th April, 2008, wherein the sale of coal has been decontrolled by the Government of NCT of Delhi. The said order is reproduced hereunder –

“In exercise of the powers conferred by section 3 of the Essential Commodities Act, 1955(10 of 1955) read with Government of India, Ministry of food and Agriculture (Department of Food) Notification no. GSR 800 dated the 9th June, 1978 and with prior concurrence of the Central Government the Lt. Governor of National Capital Territory of Delhi hereby rescinds the Control orders specified in the Schedule:-

Provided that such rescission shall not affect the previous operation of the said order or anything duty done or omitted there under:-

SCHEDULE

S.No	Name of	Issued Number
	Control Orders	



2024:DHC:5671



...

4. *The Coal F.8(37)/61–
Control Order, F&S(P&C) Dated
1963 the 31st April,
1963”*

54. After perusing the aforementioned policy and the documents on record, this Court is of the considered view that the revisionist failed to establish any right or interest over the suit property due to the lack of documentary proof on record. Moreover, with the recession of coal business as per the aforementioned Order, there is no reason to believe that the revisionist suffered or shall suffer any irreparable loss or injury.

55. This Court has dealt with a similar factual scenario in ***Municipal Corporation of Delhi vs. Sadhna Grover, 2015: DHC: 2576-DB***, wherein it was held that the respondent no. 1 is not entitled for an allotment of land on tehbazari basis. The Relevant paragraphs of the judgment are hereunder –

“23. Though it is quite evident from the orders made from time to time in the appeal that the direction issued by the learned Single Judge to the appellant MCD to allot a plot of land admeasuring 200 sq. yds. on tehbazari basis to the respondent No. 1/writ petitioner has been given a go-bye and it has been held that the respondent No. 1/writ petitioner is entitled to the same treatment as the other erstwhile coal depot tehbazari holders but we may also observe that we are unable to agree with the reasoning given by the learned Single Judge for issuing the direction to the appellant MCD to allot plot admeasuring 200 sq. yds. to the respondent No. 1/writ petitioner, even if on licence basis. The learned Single Judge appears to have been swayed into passing such a direction, dismayed at the false stand purportedly taken by the official of the MCD in the course



of the proceeding in the writ petition. However, the stand, even if false, taken by some officials of the MCD also does not justify conferment of a benefit of allotment of land to the respondent No. 1/writ petitioner, if otherwise not entitled to. We may also observe that the stand taken by the officials of the MCD of denial of grant of tehbazari rights to the respondent No. 1/writ petitioner / her predecessor, was in the face of no records of such grant being available in the MCD. It cannot thus really be said that the stand was false; perhaps it was not properly worded.

24. It cannot be lost sight of that the predecessor of the respondent No. 1/writ petitioner was but a tehbazari holder. A tehbazari holder is merely a licensee, entitled only to use the land for the purpose licensed and has no right, title or interest in the land. It cannot also be lost sight of that the said tehbazari was expressly for running a coal depot. It is not in dispute that the business of running of coal depot came to an end in the year 1995 and beyond which it was not permissible in law to run a coal depot on the said land. In our opinion, the tehbazari of the respondent No. 1/writ petitioner thus came to an end in 1995 itself and the respondent No. 1/writ petitioner has not pleaded any right in law to continue in use of the said land for other purpose or to get any alternative land. The right of the respondent No. 1/writ petitioner could at best be of rehabilitation in accordance with the policy, if any in this regard, as has rightly been observed in the orders aforesaid in this appeal. Reference may also be made to our judgment in Saptagiri Restaurant Vs. Airports Authority of India MANU/DE/2575/2014MANU/DE/2575/2014 where, on a conspectus of case law it was held that owing to Section 64 of Indian Easements Act, 1882, a licensee, if evicted, even though grounds for revocation of licence do not exist, or is forcefully evicted, his only remedy is to recover compensation from grantor and not to resume occupation.



2024:DHC:5671



25. Thus, the order dated 22nd November, 2005 of the learned Single Judge impugned in this appeal cannot stand and is set aside.”

56. This Court places reliance on ***Municipal Corporation of Delhi vs. Sadhna Grover (supra)***, in observing that the tehbazari rights does not create any right, interest or title in the licensed property, as the licensee is permitted to utilise the licensed property only for a particular purpose. In light of the same, the tehbazari holder, in which case it is the revisionist, was only permitted to utilise the suit property for the purpose of operating the coal depot. Since the business of coal has been banned in the country, the revisionist extinguished the right to utilise the suit property for running of the coal depot.

57. It was also observed by this Court that with the eviction of the tehbazari holder from the licensed property, compensation with respect to the same can be claimed, however, resumption of the earlier occupation on the licensed property cannot be granted, especially when the business of coal is banned in the country and no request for the utilisation of premises for another purpose has been raised with the concerned authorities.

58. Therefore, in light of the above reasoning, this Court is of the view that the revisionist has failed to establish any right, interest or title over the suit property.

59. Additionally, the right, interest or claim over the suit property by the revisionist has been further fabricated as no objection was raised when the suit property was transferred by the respondent no. 2 to the respondent no. 1



2024:DHC:5671



in the year 1982, indicating non-grievance over the said transfer.

60. Therefore, considering the limited scope of interference under the civil revisional jurisdiction, this Court is not inclined to exercise its revisional powers since no infirmity or irregularity, or illegality is found in the impugned order.

61. In view of the foregoing discussions of facts as well as law, the impugned order dated 15th November, 2017 passed by the learned Additional District Judge – 02, West District, Tis Hazari Courts, Delhi in MCA No. 04/17/16 (New No. 09/17) is upheld.

62. Accordingly, the instant petition stands dismissed along with pending applications, if any.

63. It is made clear that any observations made before this Court shall not construed as an expression of final observation in the proceedings pending before Trial Court.

64. The order be uploaded on the website forthwith.

CHANDRA DHARI SINGH, J

JULY 10, 2024

gs/sm/av

Click here to check corrigendum, if any