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

+ **CONT.CAS(C) 1607/2023**

SHASHI KANT AGGARWAL

..... Petitioner

Through: Mr. Alok Dev, Adv.
M: 9718090890
Email: devalok99@gmail.com

versus

SH. M. BHARANI & ORS.

..... Respondents

Through: None

CORAM:

HON'BLE MS. JUSTICE MINI PUSHKARNA

ORDER

27.05.2024

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1. The present petition has been filed alleging willful and deliberate violation of the order dated 26th July, 2022 passed in *W.P.(C) No. 11071/2021*, wherein, directions had been given to the respondents to decide the application of the petitioner for demarcation and pass a detailed and reasoned order within four weeks. Since the representation of the petitioner was not decided, the present contempt petition had come to be filed.

2. By order dated 26th July, 2022, the following directions had been passed:

“By way of the instant writ petition under Article 226 of the Constitution of India the petitioner is seeking following relief:-

“(i) Issue an appropriate writ, order or direction thereby directing the Respondent Nos. 1 and 2 to demarcate the land of Khasra No. 70/1/2 village Mangolpur Kalan, Delhi, in pursuance of the Application dated 30.05.2022 submitted in the Office of the Respondent;..”



After some length of arguments, learned counsel for the petitioner does not press the instant petition on merits and submitted that his application is pending since 30th May 2022 and direction may be issued to SDM concerned for early disposal of the same. Learned counsel appearing on behalf of the respondent has undertaken that the concerned SDM shall decide the application expeditiously.

Heard learned counsel for the parties and perused the record.

In view of the innocuous prayer on behalf of petitioner and undertaking given by learned counsel for the respondents, it is directed that concerned SDM shall decide the application of the petitioner dated 30th May 2022 and pass a detailed and reasoned order, in accordance with law, expeditiously, preferably within four weeks.

With the aforesaid directions, the instant petition stands disposed of.”

3. Perusal of the aforesaid order shows that directions had been issued to the concerned Sub Divisional Magistrate (“SDM”) to decide the application of the petitioner dated 30th May, 2022, and pass a detailed and reasoned order.
4. Subsequently, an order dated 15th February, 2024, was passed by the SDM, Saraswati Vihar, Government of National Capital Territory of Delhi, wherein, it is stated as follows:

“OFFICE OF THE SUB-DIVISIONAL MAGISTRATE SARASWATI VIHAR GOVT. OF NCT OF DELHI, OLD MIDDLE SCHOOL BLDG. COMPLEX, ROOM NO.1, RAMPURA DISTT.: NORTH-WEST, DELHI-110035

F.No.: SDM/SV/MISC./DEMARCATIION/2024/2779 Date: 15/02/2024

In Re: Representation of Shashi Kant Aggarwal for demarcation of the land/property.

ORDER

Vide this order, I shall dispose of the representation dated 30.05.2022 filed by Shashi Kant Aggarwal for demarcation of the land/property comprising in Khasra Number 70/1/2 Village Mangolpur Kalan Delhi.



Brief facts of the matter are that the applicant alleged to purchase the land /property measuring 300 sq. yds. out of Khasra Number 70/1/2 situated within revenue estate of village Mangolpur Kalan, Delhi by virtue of regd. sale deed dated 05/01/2001.

The applicant filed a Writ Petition vide no. 3199/2004 before Hon'ble High Court of Delhi and during the proceeding before Hon'ble High Court of Delhi, the D.D.A. pointed out that the demarcation of land/property has been carried out and the possession of land taken on site on 08/01/2004 and 04/03/2004. The demarcation of land was conducted in the presence of petitioner/ applicant on 16-19/8/2004 and the said Writ Petition was dismissed as withdrawn thereby granting the liberty to challenge the demarcation and regain the possession as per law.

The applicant again filed a Writ Petition vide no. 11071/2022 titled as "Shashi Kant Aggarwal Vs Govt. of NCT of Delhi and others" before Hon'ble High Court of Delhi for seeking the direction for demarcation of the land/property and the said Writ Petition was disposed off vide order dated 26/07/2022 with the direction that the representation dated 30.05.2022 filed by petitioner shall decide by way of detailed and reasoned order in accordance with Law, expeditious preferably within four weeks. The operative portion of the said order read as under:

"In view of the innocuous prayer on behalf of petitioner and undertaking given by learned counsel for the respondents, it is directed that concerned SDM shall decide the application of the petitioner dated 30th May 2022 and pass a detailed and reasoned order, in accordance with law, expeditiously, preferably within four weeks."

Thereafter a Contempt Petition vide no. ____/2023 is filed by the applicant before the Hon'ble High Court of Delhi in respect of the order dated 26/07/2022 passed by Hon'ble High Court of Delhi and the same is pending before Hon'ble High Court.

In pursuant to the direction of Hon'ble High Court of Delhi, the proceeding initiated. The notices sent to DDA, LAC, Field Staffs and applicant to the said proceeding. The counsel for applicant appeared in the said proceeding. The DDA filed, submissions vide letter dated 06/07/2023 with document.

I have gone through the documents, reports and records. From the record it is admitted that the village Mangolpur Kalan was declared as



an urban vide notification no. TCO/82/47 under section 507 of DMC Act vide dated 23/04/1982.

It is also an admitted facts from the submission of D.D.A. that the applicant also earlier filed an Writ Petition vide no. 3199/2004 titled as "Shashi Kant Aggarwal V/s DDA" and as per direction the demarcation of land /property conducted on 16-19/08/2004.

It is also admitted by the applicant in the representation that the Hon'ble High court of Delhi while disposing the said Writ Petition granted the liberty to the applicant to challenge the said demarcation report, but the said demarcation report was not challenged by the applicant.

As per the report of Field Staff, the ownership of Khasra Numbers 70/1/1 and 70/1/2 are recorded in the name of Gram Sabha as 'Abadi Deh' as Lal Dora Area of village and in the absence of Tatima and individual ownership, the demarcation of specific plot as alleged claim by applicant cannot be conducted. On the spot the land in dispute found bounded with wall and under the physical possession of DDA.

It is noted that the village Mangolpur Kalan was urbanized under section 507 of DMC Act 1957 vide notification no.TCO/82/47 Dated 23/04/1982.

The Hon'ble Supreme Court of India in recent Judgment dated 14.03.2023 in case titled as "Mohinder Singh (Dead) Through LRs & Another Vs Narain Singh and Others" has held that:

"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".

The issue of demarcation of land after urbanization of land/ village was also dealt with by Double Bench of Hon'ble High Court of Delhi vide judgment dated 18.07.2023 passed in L.P.A No. 609/2022 and 608/2022 titled as "Kamaljeet Bajwa & Others Vs Govt. of NCT of Delhi & Ors.", the relevant paras of judgment dated 18.07.2023 are reproduced herein:

47. In the considered opinion of this Court, as the land was



urbanized, the Land Reforms Act or the Land Revenue Act were not at all applicable, no such demarcation application could have been preferred before the revenue authorities.

49. In light of the aforesaid judgment once, by virtue of Notification No. F.9(2)/66/Law Corpn. dated 28.05.1966, the land is declared to be urbanized land, it can no longer be classified as village body land and the provisions of Land Reforms Act and the provisions of Land Revenue Act are not at all applicable.

52. The land situated in village Khaera has already been urbanized by notification of the year 1966 and also forms part of the notification of the master plan/ zonal plan under the Delhi Development Act. It ceases to be agriculture in nature and the authorities under the Land Revenue Act and Land Reforms Act were not having the requisite jurisdiction to carry out the demarcation, hence, the entire exercise at the behest of Revenue authorities under the Land Reforms Act and Land Revenue Act demarcating the land and putting pillars almost after 50 years is bad in law.

58. Once the land in question was urbanized vide notification dated 28.05.1966, the authorities were not at all competent to carry out demarcation as it has been done in the present case and, therefore, the orders passed in the Writ Petition dated 08.09.2020 and 24.05.2022 are hereby quashed.

In view of the ruling of Hon'ble Supreme Court of India and Hon'ble High Court of Delhi as cited above the proceeding under DLR Act is beyond the jurisdiction of Revenue Authority.

It is pertinent to state herein that till date the Competent Authority not issued/formed specific SOP for the demarcation of land/property situated in urbanized villages in Delhi.

In view of the above discussions and observations, the representation of applicant dated 30.05.2022 is hereby dismissed.

Copy of order sent to all concerned parties.

File consigned to record room

Your's sincerely

M. Bharani
SDM (Saraswati Vihar)



Distt.: North-West, Delhi”

(Emphasis Supplied)

5. The SDM, Saraswati Vihar has also filed an affidavit stating that it has passed the aforesaid order dated 15th February, 2024, pursuant to the directions issued vide order dated 26th July, 2022.
6. Reading of the aforesaid order dated 15th February, 2024 passed by the SDM, Saraswati Vihar, shows that it is the stand of the SDM, Saraswati Vihar, that since the area in question already stands urbanized, the said authority does not have the competence to carry out the demarcation of the land/property situated in urbanized villages in Delhi.
7. At this stage, learned counsel appearing for the petitioner submits that Delhi Development Authority (“DDA”) is the concerned authority, which now has to carry out the demarcation.
8. Accordingly, in view of the aforesaid stand taken by the SDM, Sarawati Vihar, it is directed that the petitioner shall make a representation to the DDA. The order dated 15th February, 2024 passed by the SDM, Saraswati Vihar, shall be brought to the notice of the DDA. The DDA is directed to consider the representation of the petitioner and take appropriate action for demarcation of the area in question.
9. The DDA is directed to decide the representation of the petitioner in a time bound manner, preferably within a period of eight weeks from today.
10. It is further directed that in case the DDA needs assistance of the Revenue Authorities, the Revenue Authorities shall duly assist the DDA in carrying out the demarcation, including, transfer of the requisite records to the DDA.



11. This Court also notes the statement made by learned counsel appearing for the petitioner that the petitioner shall bear the expenses of the demarcation. The aforesaid statement made by learned counsel appearing for the petitioner is taken on record. Accordingly, it is directed that the petitioner shall bear the expenses of the demarcation, in terms of the demand raised by the DDA in this regard.

12. With the aforesaid directions, the present petition is disposed of.

MINI PUSHKARNA, J

MAY 27, 2024/kr