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

% Judgment delivered on: 15.04.2024

+ **W.P.(C) 15040/2023****SUSHMA AGGARWAL** PetitionerThrough: Mr. Anil Kaushik, Sr. Advocate
with Mr. Lalit Valecha, Mr.
Viraag Kumar, Mr. Sameer
Chopra and Ms. Taniya Bali,
Advocates.

versus

GOVT OF NCT OF DELHI & ORS. Respondent

Through: Mr. Amit Andlay Advocate.

CORAM:**HON'BLE MR. JUSTICE TUSHAR RAO GEDELA****J U D G M E N T****TUSHAR RAO GEDELA, J. (ORAL)****[The proceeding has been conducted through Hybrid mode]****W.P.(C) 15040/2023**

1. By way of the present petition, the petitioner is seeking the following prayers: -
 - a. *Issue an appropriate Writ, order, Directions especially in the nature of Mandamus thereby quashing and setting aside the order dated 15.06.2022 passed by Ld. Sub Divisional Magistrate, Mehrauli U/s 81 Delhi Land Reforms Act in Case No. 799/RA/Meh/2019 titled "G.S. Gadaipur Vs Ida Nagar".*
 - b. *Issue an appropriate Writ, Order, Directions especially in the nature of Mandamus thereby directing the Respondent No. 3 i.e. Sub Registrar, SR VA Hauz Khas, New Delhi not to insist*



upon status report/NOC from the competent authority under the Delhi Land (Restrictions on Transfer) Act, 1972 if the petitioner intends to sell the subject property i.e. Farm No.5, 139 Village Gadaipur, New Delhi 110030 in view of the Gazette Notification dated 21.11.2019 ceasing the area of Village Gadaipur to be rural area and declaring the same as an urban area;

- c. In the interim, during the pendency of the present Petition, pass necessary orders and directions, thereby staying operation of the impugned order dated 15.06.2022 passed by Ld. Sub Divisional Magistrate, Mehrauli U/s 81 Delhi Land Reforms Act in Case No. 799/RA/Meh/2019 titled "G. S. Gadaipur Vs Ida Nagar" and no coercive action be taken against the petitioner, till disposal of the present petition.*

2. It is the case of the petitioner that 25 acres of land in the revenue estate of village Gadaipur Mehrauli New Delhi known as Nagar Estate, 139, Gadaipur New Delhi 110030 was the self-acquired property of Late Mrs. Ida Nagar (now deceased) and after her death there had been one probate proceedings titled *John Nagar vs State & Ors.* bearing *Test. Cas. No. 40/2007* before Hon'ble High Court of Delhi several other litigations between the legal heirs were initiated against each other.

3. It is also the case of the petitioner that on 15.09.2011 the legal heirs of Mrs. Ida Nagar executed a Family Settlement/Memorandum of Understanding for the subject property i.e., Farm No. 5, 139 Village Gadaipur, New Delhi, which came into the share of Mr. Ronald Nagar (one of the legal heirs of Mrs. Ida Nagar).

4. On 12.04.2012 a decree was passed in CS (OS) 666/2008 based on the Family Settlement / Memorandum of Understanding.



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5. That *vide* the Gazette Notification dated 21.11.2019 u/s 507(a) of Delhi Municipal Corporation Act 1957, village Gadaipur was urbanized.
6. It is the case of the petitioner that *vide* the sale deed dated 27.12.2019 the petitioner purchased Farm No. 5, 139 Village Gadaipur New Delhi which was registered on 07.01.2020.
7. It is the case of the petitioner that in the year 2019, Revenue Assistant, without taking into consideration the fact that Smt. Ida Nagar (since deceased) had already expired in the year 2007, and her property already stands mutated in the name of his legal heir Mr. Ronald Nagar, in the year 2015 itself, had initiated the proceedings under Section 81 of Delhi Land Reforms Act 1954, on a complaint filed by the Gaon Sabha Gadaipur against Smt. Ida Nagar(since deceased).
8. It is also the case of the petitioner, that even without serving the notice of the said proceedings, an ex-parte Restraintment Order was also passed on the date of issuance of notice, i.e., 19.11.2019, in the said proceedings under Section 81 DLR, Act, 1954.
9. Finally, the petitioner asserts that the he became cognizant of the said proceedings only after the Learned SDM Mehrauli vide the order dated 15.06.2022 vested the subject land to Gram Sabha in the proceedings u/s 81 of Delhi Land Reforms Act even though the area within which the subject property falls, ceased to be rural area and was declared urban area vide notification dated 21.11.2019. It is pertinent to mention herein that the petitioner was not made a party to the said



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proceedings and was never served a single notice.

10. Hence, the present writ petition is filed for quashing and setting aside of the order dated 15.06.2022 passed by Ld. Sub Divisional Magistrate, Mehrauli.

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11. This is an application filed on behalf of the applicant under order 1 Rule 10 read with section 151 CPC, 1908 seeking impleadment in the present petition.

12. Mr. Kaushik learned senior counsel appearing on behalf of the petitioner on instructions of the learned counsel for the petitioner submits that the petitioner has no objection in case the present application is allowed.

13. In view of the above submission, the present application is allowed and the applicant namely, Dr. Hans U Nagar, is impleaded as respondent no.4. The amended memo of parties be filed within one week. Mr. Kaushik learned senior counsel on instructions withdraws the prayer (B) of the present petition without prejudice to his rights and contentions to be raised at an appropriate stage before an appropriate Court/Forum.

14. Mr. Kaushik, learned senior counsel for the petitioner draws attention of this Court to the page 56 of the present petition, which is the conditional decree passed by the Revenue Assistant dated 06.01.2020 based on the report of the Halqa Patwari dated 08.11.2019 stating that the land bearing Kharsa No.170, 171/1-2-3, 184/1,185 min situated in the revenue estate of village Gadaipur, New Delhi under the



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Bhumidari of the respondent i.e., Smt. Ida Nagar, the mother of the predecessor in the interest of the petitioner and the newly impleaded of the respondent no.4, was being used for non-agricultural purposes under Section 81 of the DLR Act, 1954.

15. Learned senior counsel submits that without going into the merits of the matter or to the facts it would be relevant for the consideration of this Court that *vide* the notification dated 21.11.2019 issued under Section 507 (a) of DMC Act 1957 village Gadaipur was declared to be an urbanised area.

16. He submits that keeping in view the fact that the village was urbanised *vide* notification dated 21.11.2019 read with the ratio laid down by the Supreme Court in ***Mohinder Singh (Dead) Through LRs and Anr. vs. Narain Singh and Ors*** reported in **2023 SCC OnLine SC 261**, not only the provisions of the DLR Act, 1954, cease to apply, but also the proceedings post issuance of such notification would be non-est in law.

17. This Court has heard the submissions of learned senior counsel and as also Mr. Andlay for the newly impleaded respondent no.4. The proceedings which were initiated on Halqa Patwari's report dated 08.11.2019 continued to be adjudicated by the Revenue Assistant and subsequently by the SDM Mehrauli *vide* the impugned order dated 15.06.2022, the said proceedings were disposed of. There is no doubt that once the notification under Section 507 (a) of the DMC Act, 1957 is issued declaring that a particular area is urbanised, the provisions of the Delhi Land Reforms Act, 1954, would automatically cease to apply



to such land. That apart, the ratio laid down by the Supreme Court in ***Mohinder Singh (supra)*** makes it apparently clear that any proceeding, post issuance of the notification under Section 507(a) of the DMC Act, 1957, would automatically become *non-est* in law.

18. The conditional decree dated 06.01.2020 and the order dated 15.06.2022, had apparently been passed after the notification was issued on 21.11.2019 and as such cannot withstand judicial scrutiny in view of the aforesaid notification as also the judgement of the Supreme court in ***Mohinder Singh (supra)***. The relevant para of ***Mohinder Singh (supra)*** is extracted hereunder :-

“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.”

Since, the issue is one of applicability of law, this Court need not examine the matter on merits. Accordingly, applying the ratio of ***Mohinder Singh (supra)***, this Court is of the considered opinion that the order dated 06.01.2020 as also the order dated 15.06.2022 impugned by the petitioner herein ought to be and quashed and set aside and declared to be *non-est* in law.

19. It is not disputed that the respondent no.4 has already filed a suit in respect of the subject property in which the petitioner has also been made a party defendant and which is pending adjudication before the Trial Court/Competent Civil Court. Thus, the interests of both parties is subsequently represented before a Competent Court exercising Civil jurisdiction.



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20. In such circumstances it is made clear that the aforesaid order has been passed without prejudice to the rights and contentions of any of the parties taken as to be taken before the learned Trial Court.

21. The petition is disposed of in above terms with liberty sought by the petitioner in respect of prayer (B) granted.

TUSHAR RAO GEDELA, J

APRIL 15th, 2024/ss