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

+ W.P.(C) 15387/2023 & CM APPL. 61721/2023

SH. JAIPAL SINGH DECEASED THROUGH HIS
L.R.S. & ORS.

.....Petitioners

Through: Ms. Jyoti Nambiar, Advocate.

versus

GOVT. OF NCT OF DELHI & ORS.

.....Respondents

Through: Ms. Shobhana Takiar, SC with
Mr. Prateek Dhir, Mr. Shivam Takiar and Mr.
Kuljeet Singh, Advocates for DDA.
Mr. Tushar Sannu, Advocate for GNCTD.

CORAM:

HON'BLE MS. JUSTICE JYOTI SINGH

ORDER

11.12.2024

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1. This writ petition has been preferred on behalf of the Petitioners under Articles 226 of the Constitution of India seeking the following relief:-

“(a) quash and set aside the order of Revenue Assistant/Respondent No.3 dated 19.12.2011 in Case No.2588/RA/SDM/SV/2009 titled Gaon Sabha Rani Khera Vs Jagbir Singh & Ors. and order of Deputy Commissioner/Collector, respondent No.4 dated 11.09.2015 in appeal no. 161 /DC/NW/2012/158 in respect of land Khasra Nos.8/22 (4-16), 8/23 (4-16), 27/2(4-16), 3(4-16), situated at Village Rani Khera, Delhi-110081; and/or.”

2. Factual matrix to the extent necessary is that Petitioners are the Bhumidar of land comprising Khasra Nos.8/22 (4-16), 8/23 (4-16), 27/2(4-16), 3(4-16), situated in Revenue Estate of Village Rani Khera, Delhi as recorded in the Khatoni, copy of which has been placed on record. On 24.10.2008, with the permission of the Competent Authority, Petitioners



raised a boundary wall on the land in question for protecting crops from animals as also for security reasons but the land use continued to be for agricultural purposes.

3. It is averred that on the basis of Report of the Halka Patwari dated 16.06.2009, proceedings under Section 81 of Delhi Land Reforms Act, 1954 ('1954 Act') were initiated against the Petitioners for illegal construction of the boundary wall, pursuant to which a conditional order was passed on 20.12.2010 allegedly without notice to the Petitioners. On the basis of the conditional order, final order was passed on 19.12.2011 again without notice to the Petitioners. The order was however, never executed. This order was challenged by the Petitioners before the Deputy Commissioner but the appeal was dismissed on 11.09.2015 without entering into the merits. This order was again challenged before the Financial Commissioner in Revision Petition No.171/2016 which was also dismissed on 19.05.2023, again not on merit but on the ground that due to urbanisation of Village Rani Khera vide notification dated 16.05.2017, the learned Financial Commissioner did not have jurisdiction to proceed with the revision petition. It is this order which is assailed in this writ petition.

4. Learned counsel for the Petitioner submits that both the conditional and final orders were passed against the Petitioners under 1954 Act without even notice to them albeit they are the recorded Bhumidars of the subject land. Petitioners had only constructed a boundary wall to secure the land which was permissible under Section 3(1) of the Act for the purpose of improvement. The Revenue Commissioner has erred in declining to exercise jurisdiction on the basis of the urbanisation notification on the basis 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, overlooking the fact that the Division Bench of this Court in *Subnam Gupta (Sabnam Gupta) v. Union of India and Others, 2024 SCC OnLine Del 2759*, has held that where an order of the SDM has been passed prior to the urbanisation notification and revisional/appellate proceedings are pending, the proceedings will not be rendered *non est*.

5. Looking at the grievances of the Petitioners and their stand that they are the recorded Bhumidars of the subject land as also noting the fact recorded in order dated 30.11.2023, whereby operation of the impugned order dated 19.12.2011 and order dated 11.09.2015 was stayed, that physical possession continues with the Petitioner, in my view, the matter requires re-consideration in light of the judgment of the Division Bench of this Court in *Subnam Gupta (supra)*.

6. Accordingly, without entering into the merits of the case, this writ petition is disposed of with a direction to the learned Financial Commissioner to decide the issue of jurisdiction afresh in the Revision Petition bearing No.171/2016 in light of the judgment of the Supreme Court in *Mohinder Singh (supra)* as also the Division Bench of this Court in *Subnam Gupta (supra)*. The decision shall be taken as expeditiously as possible and not later than eight weeks from the date of receipt of this order.

7. Pending application stands disposed of.

JYOTI SINGH, J

DECEMBER 11, 2024/shivam