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

\+ W.P.(C) 11323/2024

SKIPPER TRAVELS INTERNATIONAL PVT LTD .....Petitioner

Through: Mrs. Bani Dikshit, Mr. Aditya Pani, Mr. Uddhav Khanna and Mr. Dhruva Vig, Advocates

versus

GOVERNMENT OF NCT OF DELHI & ORS. .....Respondents

Through: Mr. Prashant Manchanda, Additional Standing Counsel, GNCTD with Mr. Mayank Kamra, Advocate for R-1 to 3.
Mr. Ashim Vachher, Advocate for R-4.

CORAM:
HON'BLE MS. JUSTICE JYOTI SINGH

<u>O R D E R</u>

% **16.08.2024**

<u>CM APPL. 46925/2024</u>

1. Exemption allowed, subject to all just exceptions.

2. Application stands disposed of.

<u>W.P.(C) 11323/2024</u>

3. This writ petition has been preferred on behalf of the Petitioner under Articles 226 and 227 of the Constitution of India seeking the following reliefs:

> *"A. Issue a writ of mandamus and/or any other writ directing the Respondents to enter and record the name of the Petitioner, i.e., Skipper Travels International Private Limited, as Bhumidar in the Khasra Girdawari and other relevant revenue records for the agricultural land bearing Khasra No. 3/18/(3-0) AND Khasra No. 56/5/2(2-11), 56/6/1(2-12), 56/6/2(0-11), 56/74(2-11) measuring 11 Bighas 5 Biswas, situated in village Samalkha, Tehsil Mehraul, Delhi.*

B. Direct the Respondents to comply with the judicial directions issued by this Hon'ble High Court of Delhi as well as the Hon'ble Supreme Court regarding the recording of the Petitioner's name in the revenue records.

C. Award costs of the petition to the Petitioner."

4. The case of the Petitioner is that it is compelled to invoke the writ jurisdiction of this Court due to arbitrary and unreasonable actions of the Respondents No.1 to 3, in failing to record the name of the Petitioner in the *Khasra Girdawari* and other Revenue Records concerning the agricultural land bearing Khasra No.3/18 (3-0) and Khasra No.56/5/2 (2-11), 56/6/1 (2-12), 56/6/2 (0-11), 56/74 (2-11) measuring 11 Bighas 5 Biswas situated in Village Samalkha, Tehsil Mehrauli, Delhi.

5. It is averred by the Petitioner that it has been in continuous cultivatory possession of the aforesaid agricultural land since the year 1983-84. The possession was confirmed by Patwari's report dated 21.07.1988 and the report of the Local Commissioner dated 25.05.1995 in suit titled *'Skipper Travels International Private Limited v. Gaon Sabha Samalkha'* being CS(OS) No.1456/1994. It is averred that this Court in I.A. No.6740/1994 vide order dated 17.07.1998 directed that Petitioner shall not be dispossessed without following the due process of law. This order was challenged by the Gaon Sabha in FAO No.222/1998, which was disposed of by the Division Bench vide order dated 30.04.2012 affirming that any dispossession would be subject to proceedings under the Delhi Land Reforms Act, 1954 (hereinafter referred to as 'Act 1954').

6. It is further averred that Petitioner had filed a writ petition being CWP No.3929/1996 before this Court seeking directions against Respondents No.1 to 3 for recording its possession and cultivation on the subject land in

the *Khasra Girdawari* and this Court vide order dated 03.10.1997 directed the said Respondents to follow the directions in case titled ***Balbir Singh v. A.D.M. (Revenue) & Others***, ***(1995) 57 DLT 547 (DB)***. However, Respondents No.1 to 3 have failed to record possession of the Petitioner in the revenue record.

7. Issue notice.

8. Mr. Prashant Manchanda, learned Additional Standing Counsel accepts notice on behalf of Respondents No.1 to 3.

9. Mr. Ashim Vachher, learned counsel accepts notice on behalf of Respondent No.4/DDA.

10. Mr. Manchanda draws the attention of the Court to the Notification dated 25.09.2020, whereby Village Samalkha has been urbanized and the name of the Village appears at Entry 59 of the Notification, a fact not disputed even by the Petitioner. He, therefore, submits that in view of the Notification and urbanization of the Village, in which the subject land is situated, Revenue officials have ceased to have jurisdiction, 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.***

11. Mr. Ashim Vachher adopts the same stand and further submits that the Division Bench of this Court in ***Kamaljeet Bajwa and Others v. Government of NCT of Delhi and Others, 2023 SCC OnLine Del 4192,*** has also held that authorities under the Act 1954 will cease to have jurisdiction in respect of Village Kharera in light of the Notification urbanising the village. He further submits that insofar as DDA is concerned, Petitioner has never filed any representation with the DDA seeking entry in the Revenue record and therefore, DDA cannot be blamed for inaction.

12. Heard learned counsel for the parties.

13. It is an undisputed fact that Village Samalkha, Tehsil Mehrauli, Delhi in which the land of the Petitioner is situated has been urbanised by a Notification dated 25.09.2020 issued under Section 507(a) of Delhi Municipal Corporation Act, 1957 (hereinafter referred to as 'Act 1957'). In ***Mohinder Singh (supra)***, the Supreme Court held that "*after harmonising the provisions of 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 Division Bench of this Court in ***Kamaljeet Bajwa (supra),*** in reference to Village Kharera was examining two main grounds raised by the Appellants as follows and held that in light of Notification under Section 507(a) of Act 1957, the authorities under Act 1954 or Delhi Land Revenue Act, 1954 will not have jurisdiction in respect of Village Kharera to order demarcation. Relevant paragraphs are as follows:

> *"30. Thus in short two main grounds have been raised by the Appellants in the present Appeal.*
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> *(a) That no application for demarcation was maintainable before the revenue authorities keeping in view the Delhi Land Revenue Act, 1954 (hereinafter to be referred as 'Land Revenue Act') and Delhi Land Reforms Act, 1954 (hereinafter to be referred as 'Land Reforms Act'), as the village in question was urbanized in the year 1966 and it is only DDA which can order for a demarcation being the land owning agency.*
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> *(b) The Appellants are bona fide purchasers of the shops in question. They are the title holder and a land in respect of which proceedings were initiated in 1961 can by no stretch of imagination be placed in possession of Padmavati Investment Limited based upon some application for demarcation, that too which was submitted to the authorities not competent to do so.*

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46 In light of the aforesaid notification, the authorities under the Delhi Land Reforms Act or Delhi Land Revenue Act do not have jurisdiction in respect of the village Kharera to order for any demarcation."

14. Therefore, Respondents No.1 to 3 are correct in their submission that they cannot be faulted for inaction to record the cultivatory possession of the Petitioner in the Revenue records. Insofar as DDA is concerned, Petitioner has admittedly not made any representation calling upon the Authority to record the entry and at this stage, learned counsel for the Petitioner, on instructions, submits that the Petitioner will approach the DDA for recording the possession of the Petitioner and DDA be directed to take necessary action in the matter.

15. Accordingly, this writ petition is disposed of leaving it open to the Petitioner to approach the DDA for seeking the relief sought in the present petition for recording the cultivatory possession of the Petitioner, in accordance with law. This is without prejudice to the second contention on behalf of the DDA that legal title of the Petitioner is in dispute, a submission vehemently opposed by the Petitioner's counsel on the ground that Petitioner was a recorded *Bhumidar* and in cultivatory possession from 1983 till 2005, which is borne out from the Revenue record.

16. Be that as it may, as and when the Petitioner makes a representation to the DDA, the same shall be considered and decided in accordance with law within 6 weeks from the date of receipt of the same. The question of the title of the Petitioner and/or whether it is entitled for the relief claimed, i.e. recording the cultivatory possession in the Revenue record, is left open at this stage to be decided by the Competent Authority. The decision will be

taken after calling upon the Authorized Representative of the Petitioner for a personal hearing, for which notice of one week will be given in writing.

17. Needless to state, a reasoned and speaking order shall be passed by the DDA which will be communicated to the Petitioner within one week from the date of the decision. Liberty is reserved with the Petitioner to take recourse to legal remedies in case of any surviving grievance.

18. With the aforesaid observations and directions, the writ petition stands disposed of.

JYOTI SINGH, J

AUGUST 16, 2024/kks