



2024:DHC:7591



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**% *Date of Decision: 19th September, 2024*

+ W.P.(C) 11394/2024

UPPAL HOTELS PVT. LTD. (NOW KNOWN AS
DTU HOTELS PRIVATE LIMITED)PetitionerThrough: Mr. Manish Vashisht, Senior
Advocate with Mr. Arpit Dwivedi, Mr. Manmeet
Singh Nagpal and Mr. Vedansh, Advocates.

versus

GOVERNMENT OF NCT OF DELHI & ORS.Respondents

Through: Mr. Rishikesh Kumar, ASC with
Ms.Sheenu Priya and Mr. Atik Gill, Advocates for
Respondents/GNCTD.**CORAM:****HON'BLE MS. JUSTICE JYOTI SINGH****JUDGEMENT****JYOTI SINGH, J. (ORAL)****C.M. APPL. 54673/2024**

1. This is an application filed on behalf of the Petitioner under Section 151 CPC for early hearing of the present writ petition, which is listed for 08.01.2025.
2. Issue notice.
3. Mr. Rishikesh Kumar, Additional Standing Counsel accepts notice on behalf of the Respondents/GNCTD.
4. For the reasons stated in the application, the same is allowed and with the consent of the parties, writ petition is taken up for final hearing.



5. Date of 08.01.2025 stands cancelled.

6. Application stands disposed of.

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7. This writ petition has been preferred on behalf of the Petitioner under Article 226 of the Constitution of India seeking the following reliefs:

“a) Issue a writ of declaration, declaring that the provisions of the Delhi Land Reforms Act, 1954, cease to apply to the subject Land;

b) Quash the Proceedings initiated under Section 81 of Delhi Land Reforms Act, 1954 and all proceedings emanating therefrom.

c) Quash the Appeal bearing No.22.06.2021 [Annexure P-10 (Colly)] filed by the Respondent No.3 before the Respondent No.2 being without jurisdiction and the subject land being outside the definition of “agriculture land” as defined under Section 3(13) of Delhi Land Reforms Act, 1954;

d) Issue appropriate writ of Mandamus directing the Respondents and also concerned authorities not to create any impediment in the sale and transfer of the Land by the Petitioner to the third party during the pendency of the present Writ Petition.”

8. Facts to the extent necessary for adjudication of the present petition are that Petitioner applied to South Delhi Municipal Corporation (‘SDMC’) on 03.05.1999 for permission to develop a Motel on its land, detailed in paragraph 3 of the writ petition, situated in the revenue estate of Village Samalkha, New Delhi and paid the requisite fees. Petitioner obtained sanction of the building plans and thereafter completed construction of the Motel on 05.12.2001 and SDMC issued a Completion Certificate bearing No.SI 653 through Sanction Letter No.912/CC/NG/EE(B)2001. On 26.10.2012, Ministry of Urban Development (Delhi Division), Government of India issued a Notification increasing the applicable Floor Area Ratio (‘FAR’) for Motels to 175. On 05.07.2016, Petitioner obtained fresh



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sanction in terms of the increased FAR and again commenced construction of the Motel.

9. It is averred that on 22.12.2017, learned SDM, Chankyapuri initiated proceedings against the Petitioner under Section 81 of the Delhi Land Reforms Act, 1954 ('1954 Act') alleging unauthorised construction. However, the said proceedings were dropped on 10.09.2020. On 20.11.2019, Department of Urban Development, GNCTD issued a Notification declaring the areas of 79 villages, including Village Samalkha as Urban areas and this was followed by a Notification dated 25.09.2020 by the Ministry of Housing and Urban Affairs, Government of India urbanising the said village.

10. It is further averred that aggrieved by the said order, Gaon Sabha, Samalkha preferred an appeal bearing No.01/2021 before the learned Deputy Commissioner, New Delhi. Petitioner consistently inquired from the office of the Deputy Commissioner as to the status of the appeal between November 2022 to May 2024, but he was given no information and no date was ever fixed for hearing to the best of knowledge of the Petitioner and it is thereafter that present writ petition was filed seeking quashing of the proceedings under Section 81 of 1954 Act 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. Manish Vashisht, learned Senior Counsel for the Petitioner submits that vide Notification dated 20.11.2019, Village Samalkha was urbanised and Respondent No. 3 attempted to mislead the learned Commissioner that the village was urbanised on 25.09.2020. Therefore, once the village was urbanised on 20.11.2019, provisions of 1954 Act ceases to



apply and the proceedings under Section 81 of the said Act become *non-est*. To support his plea, learned Senior Counsel relies on the judgment of the Supreme Court in *Mohinder Singh (supra)*. Reliance is also placed on the judgments of this Court in *North East Tribal Welfare Society (Regd.) v. Govt. of NCT of Delhi and Others, 2023 SCC OnLine Del 3420* and *Ved Prakash Maan & Ors. v. Govt. of NCT of Delhi & Anr., W.P.(C) 10734/2024*, decided on 05.08.2024, for the said proposition. Mr. Vashisht additionally submits that Petitioner had constructed a Motel on the plot in question after the building plans were duly sanctioned and the land ceases to be an agricultural land within the meaning of Section 3(13) of the 1954 Act and places reliance on the judgment of this Court in *M/s. Shri Neelpadmaya Consumer Products Pvt. Ltd. v. Sh. Satyabir @ Satbir And Ors., 2016 SCC OnLine Del 761*.

12. Learned Standing counsel for the Respondents, on instructions, fairly and candidly submits that once Village Samalkha, within which the land of the Petitioner is situated has been urbanised, the proceedings under Section 81 of 1954 Act cannot be sustained in view of the judgment of the Supreme Court in *Mohinder Singh (supra)*.

13. Indisputably, land of the Petitioner which is the subject matter of the present writ petition falls within the Revenue Estate of Village Samalkha which has been urbanised vide Notification dated 20.11.2019 issued under Section 507(a) of Delhi Municipal Corporation Act, 1957 ('1957 Act') and therefore, in view of the judgment of the Supreme Court in *Mohinder Singh (supra)*, proceedings pending before the Appellate Authority have become *non-est*. The Supreme Court has held in the said judgment that after



harmonising the provisions of 1954 Act and 1957 Act, the conclusion is that once a Notification is published in exercise of power under Section 507(a) of 1957 Act, provisions of 1954 Act cease to apply and in sequel thereto, proceedings under 1954 Act become *non-est* and lose their legal significance. Petitioner's case is also supported by the judgment of this Court in ***North East Tribal Welfare Society (Regd.) (supra)***, wherein relying on the judgment passed in ***Ruksana Bano and Others v. Government of NCT of Delhi and Others, 2023 SCC OnLine Del 1434***, it was held as follows:-

“24. It is undisputed fact that the DDA had issued a notification dated 04.06.2010 under the provisions of Master Plan of Delhi 2021 notifying zonal plan for District South West Delhi, including village Goela Khurd. Thus, when the land in question was covered under the zonal plan issued by the DDA, then the said land cannot be said to be governed by the provisions of DLR Act any longer. The contention on behalf of the respondents that the said area cannot be considered to be urbanised on the said date as no notification under Section 507 of the Delhi Municipal Corporation Act, 1957 (DMC Act) had been issued, has to be rejected.

25. The matter in question on the aspect of village Goela Khurd having been urbanised upon issuance of notification by the DDA on 04.06.2010, is no longer res integra. This question was considered by this Court in the case of Shri Neelpadmaya Consumer Products Pvt. Ltd. v. Sh. Satyabir @ Satbir1. In the said case, this Court has categorically held as follows:

“23. I agree with the argument which is urged on behalf of the plaintiff that a notification for urbanization need not only be through a notification under Section 507 of the Delhi Municipal Corporation Act as the later part of Section 3(13) of the Act does not in any way require that there is only one manner of notification viz only under Section 507 of the Delhi Municipal Corporation Act. This later part of Section 3(13) of the Act does not talk of a notification only under Section 507 of the Delhi Municipal Corporation Act. The requirement of this later part of Section 3(13) of the Act is only that a notification is issued in the Official Gazette to make the land as part of the Delhi town and New Delhi town. Once a notification is issued applying a zonal plan issued pursuant to the master plan showing that subject



lands are covered under the zonal plan issued by the DDA, in such a situation, it has to be held that the lands cease to be the lands covered under the Act because of issuance of a notification in the Official Gazette results in the lands becoming part of the Delhi town. Additional reasoning on this aspect can be understood from the object and the language found in Section 1 and Sections 3(5) and 3(15) of the Act and which Sections show that once an area falls within a town area and an area ceases to be an agricultural land because it has to be developed as part of the development of the Delhi town or New Delhi town, then such an area no longer remains an agricultural area for being covered under the expression land as defined in Section 3(13) of the Act. With humility, I am in complete agreement with the observations made by the learned Single Judge of this Court in the case of Guru Pratap Singh (supra) and which arrives at the same conclusion that once the land ceases to be agricultural, the land ceases to be the subject matter of the Act.

24. I may note that the plaintiff has proved the zonal plan Ex.PW 5/1 and the notification Letter dated 4.6.2010 as Ex.PW 5/2 and these documents clearly show that the entire village Goela Khurd and wherein the suit land is located is the subject matter of the zonal plan issued under the Delhi Development Authority. As per the aforesaid discussion, as also the ratio of the learned Single Judge in Gur Pratap Singh (supra), once the land is the subject matter of a zonal plan issued under Section 11 of the Delhi Development Act, the land is beyond the purview of the Act.....”

26. Hence, the position is clear that a land becomes urbanised not only by way of notification issued under Section 507 of DMC Act, 1957 but also by way of notification by the DDA issuing zonal plan under the Master Plan for areas in question. Once zonal plan has been issued by the DDA under the Master Plan for an area in question, the said lands cease to be lands covered under the DLR Act. Even a notification issued by the Central Government under Section 11 of The Delhi Development Act, 1957 bringing an area within the ambit of a zonal plan of the DDA, has the effect of encompassing such area within the limits of urbanised land. Thus, when village Goela Khurd, wherein the land in question is located, is subject matter of the zonal plan issued by the DDA, the said village stood urbanised and provisions of DLR Act ceased to have any applicability over the said area.

27. This Court in the case of Gur Partap Singh v. Union of India² took note of the fact that by its gazette notification, the DDA amended the Master Plan wherein construction for commercial use was allowed in



certain rural zones. Thus, it was held that once such option for construction for commercial use was available, then such land would cease to be agricultural and in that eventuality there was no question of application of DLR Act. Para-19 of the said judgment reads as follows:

“19. This matter can be looked into from another aspect. The notification amending the Master Plan clearly provides that the land in question can be used for the purpose of a motel. Once this option is available and is exercised by owner of the land, the land is no more being used for agricultural purposes. Thus, once the land is elected to be used by the owner for a motel, permission for which has been granted under the amendment to the Master Plan, it no more remains agricultural land under the meaning of Section 3(13) of the Land Reforms Act. For this reason also, there would be no occasion for obtaining any permission. The Land Reforms Act is an enactment for protecting the agricultural use of the land. Once this land itself ceased to be agricultural, there is, really speaking, no question of application of the Land Reforms Act. Needless to say, this is on account of the fact that there is permissible non-agricultural use of a motel in pursuance to the notification of 1995.”

28. In view of the aforesaid, when the land in question ceased to be governed by the DLR Act, the order dated 24.06.2010 passed by the Court of SDM/RA (Najafgarh) under Section 81 of the DLR Act, is clearly without any jurisdiction. As noted hereinabove, the area in question stood converted to urban land with effect from 04.06.2010. Therefore, the SDM/RA had no authority to pass any order under Section 81 of the DLR Act on 24.06.2010.

29. Once a particular area is subject matter of notification under The Delhi Development Act, 1957 by notifying the Master Plan or Zonal Plan, then such land becomes urbanised and is out of the scope of the application of the DLR Act. Resultantly, the jurisdiction of the revenue authority ceases and is ousted.

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39. In view of the aforesaid detailed discussion, the impugned order dated 24.06.2010 passed by the SDM/RA (Najafgarh), GNCTD is hereby set aside, as being non-est and nullity, and having been passed without any jurisdiction. Consequently, the respondents are directed to hand over possession of the land under the ownership of the petitioners forthwith, viz. land comprised in Khasra Nos. 24/6/1/2 (0-18), 15/2 (1-12), 25/10/1 (0-15), 25/11 (4-16), 12 (1-14), 25/20/1 (0-8) and 20/2 (3-18), situated in the revenue estate of village Goela Khurd, New Delhi. The petitioners are



directed to approach the concerned Revenue Authorities with requisite documents of ownership in their favour for taking over possession of their respective lands.”

14. Learned Senior Counsel for the Petitioner is also right in his submission that once the building plan for construction of a Motel on the subject land was sanctioned, the land ceased to be an agricultural land within the meaning of Section 3(13) of 1954 Act, in view of the judgment of this Court in ***M/s. Shri Neelpadmaya Consumer Products Pvt. Ltd. (supra)***, relevant paragraphs of which are as follows:-

“22(ii) In response to the argument urged on behalf of the defendants, counsel for the plaintiff has argued that it is not necessary that notification which is talked of in the later part of Section 3(13) of the Act has necessarily to be a notification only under Section 507 of the Delhi Municipal Corporation Act, 1951 inasmuch as even a notification issued by the Central Government under Section 11 of the Delhi Development Act, 1957 declaring an area to be the subject matter of a master plan or a zonal plan of the Delhi Development Authority, has the effect that such a land with respect to which a master plan or a zonal plan or an area plan is prepared (and which will entitle thereafter the DDA to treat such area as development area for being developed as per the master or zonal plan etc) shows that by such notification lands no longer will remain the subject matter of the Act inasmuch as such lands are part of urbanization. Reliance is also placed in this regard upon paras 19 and 24 of the judgment of a learned Single Judge of this Court in the case of Gur Pratap Singh v. Union of India 2004 (111) DLT 25, and by which paras, the learned Single Judge has held that once a particular area is a subject matter of the notification under the Delhi Development Act by notifying the master plan or zonal plan then such land becomes urbanized and hence is out of the scope of application of the Act and Section 3(13) of the Act. These paras 19 and 24 read as under : -

“19. This matter can be looked into from another aspect. The notification amending the Master Plan clearly provides that the land in question can be used for the purpose of a motel. Once this option is available and is exercised by owner of the land, the land is no more being used for agricultural purposes. Thus, once the land is elected to be used by the owner for a motel, permission for which has been granted under the amendment to the Master Plan, it no more remains



agricultural land under the meaning of Section 3(13) of the Land Reforms Act. For this reason also, there would be no occasion for obtaining any permission. The Land Reforms Act is an enactment for protecting the agricultural use of the land. Once this land itself ceased to be agricultural, there is, really speaking, no question of application of the Land Reforms Act. Needless to say, this is on account of the fact that there is permissible non-agricultural use of a motel in pursuance to the notification of 1995.

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24. Section 53(3) of the DDA Act makes it clear that once a permission for development under this Act has been obtained, the same shall not be deemed to be unlawful by reason of the fact that such permission, approval or sanction is required under any other law for which permission has not been obtained. Thus, in view of the mandate by the DDA and accepted by the MCD, there would be overriding effect of this mandate, even if the Land Reforms Act was to apply.” (underlining added)

23. I agree with the argument which is urged on behalf of the plaintiff that a notification for urbanization need not only be through a notification under Section 507 of the Delhi Municipal Corporation Act as the later part of Section 3(13) of the Act does not in any way require that there is only one manner of notification viz only under Section 507 of the Delhi Municipal Corporation Act. This later part of Section 3(13) of the Act does not talk of a notification only under Section 507 of the Delhi Municipal Corporation Act. The requirement of this later part of Section 3(13) of the Act is only that a notification is issued in the Official Gazette to make the land as part of the Delhi town and New Delhi town. Once a notification is issued applying a zonal plan issued pursuant to the master plan showing that subject lands are covered under the zonal plan issued by the DDA, in such a situation, it has to be held that the lands cease to be the lands covered under the Act because of issuance of a notification in the Official Gazette results in the lands becoming part of the Delhi town. Additional reasoning on this aspect can be understood from the object and the language found in Section 1 and Sections 3(5) and 3(15) of the Act and which Sections show that once an area falls within a town area and an area ceases to be an agricultural land because it has to be developed as part of the development of the Delhi town or New Delhi town, then such an area no longer remains an agricultural area for being covered under the expression land as defined in Section 3(13) of the Act. With humility, I am in complete agreement with the observations made by the learned Single Judge of this Court in the case of Guru Pratap Singh (supra) and which



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arrives at the same conclusion that once the land ceases to be agricultural, the land ceases to be the subject matter of the Act.”

15. In view of the above, writ petition is allowed and proceedings pending before the Deputy Commissioner in Appeal bearing No.01/2021 titled “*Gaon Sabha Samalkha v. M/s Uppal Hotels Pvt. Ltd.*” in respect of land comprised in Khasra Nos. 8//5/2MIN (2-3), 6MIN (2-14), 13MIN (1-4), 14/1 MIN (2-14), 14/2MIN (1-6), 15 MIN (3-5), 16 (3-3), 17/1 (3-5), 17/2 (1-11), 18MIN(1-9), 23MIN(1-5), 42min(0-3), total area ad-measuring 24 Bighas 2 Biswas, situated within the Revenue Estate of Village Samalkha, Tehsil Vasant Vihar, New Delhi, are hereby quashed and set aside.
16. Writ petition stands disposed of.

JYOTI SINGH, J

SEPTEMBER 19, 2024

B.S. Rohella/shivam