



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

% **Judgment reserved on : 20 November 2024**
Judgment pronounced on: 10 December 2024

+ **LPA 896/2024**

MADAN PAL GUPTA & ANR.Appellants

Through: **Mr. Rajesh Yadav, Sr. Adv.**
with Ms. Preeti Gupta and Mr.
Rahul Jaryal, Adv.

versus

MAYA DEVI & ANR.Respondents

Through: **Mr. Kameshwar Mishra, Adv.**
for R-1.
Mr. Prashant Manchanda, ASC
with Mr. Namey Shah, Mr.
Rohan Pratap Singh and Ms.
Rupali, Adv. for R-2.

CORAM:

HON'BLE MR. JUSTICE YASHWANT VARMA

HON'BLE MR. JUSTICE DHARMESH SHARMA

J U D G M E N T

DHARMESH SHARMA, J.

1. The appellants have instituted the present Letters Patent Appeal [‘LPA’] in terms of Clause 10 of the Letters Patent of Lahore, as applicable to the Delhi High Court, read with Section 10 of the Delhi High Courts Act, 1996, assailing the impugned judgment dated 09.04.2024, passed by the learned Single Judge of this Court, thereby allowing the writ petition bearing WP(C) No. 15300/2023 titled “*Maya*



Devi v. State (NCT of Delhi) & Anr.” seeking setting aside of the order dated 29.04.2022 passed by the Revenue Assistant/Sub Divisional Magistrate, Civil Lines, Delhi [‘SDM’] in Execution Petition bearing 7744-49/ 2022, besides order dated 26.09.2023 passed by the Deputy Commissioner, Civil Lines, Delhi, in Appeal No. 02/2021/DCCEN/2023/23722.

FACTUAL MATRIX:

2. Shorn of unnecessary details, a parcel of agricultural land bearing *Khasra* No. 213, Village *Mukandpur*, Delhi-110042 (hereinafter referred to as “*agricultural land*”), came to be jointly owned and possessed by three persons, namely Smt. Maya Devi i.e., the respondent No.1 herein, Smt. Lalita Devi i.e., appellant No.2 herein, and Smt. Bimla, by way of a registered sale deed dated 12.01.1989 executed in their favour by their respective husbands, the erstwhile owners of the agricultural land.

3. Thereafter, Smt. Lalita Devi (appellant No.2) instituted two suits before the SDM, Civil Lines, Delhi, first suit bearing No. 73/RA/2003 filed under Section 55 of the Delhi Land Reforms Act, 1954 [‘DLR Act’], and the second suit bearing No. 360/RA/2008 filed under Section 36 of the DLR Act, thereby seeking partition of the agricultural land and grant of liberty to the appellant No.2 to transfer/sell her 1/3rd share in the said land. As a matter of record, the SDM *vide* order dated 12.03.2021 allowed the prayer of the appellant No.2 and granted such liberty as sought by her, which decision was



assailed by Smt. Maya Devi (respondent No.1) under section 185 of DLR Act read with Section 64 of the Delhi Land Revenue Act, 1954, before the Deputy Commissioner (Central) *vide* Appeal No. 02/2021/DCCEN/2023/23722 titled as “*Maya Devi v. Lalita Devi*”.

4. In the interregnum, as a matter of fact, Village *Mukandpur* stood *urbanised* by way of Notification dated 16.05.2017 issued under Section 507(a) of the Delhi Municipal Corporation Act, 1957 [“**1957 Act**”], *vide* Entry at Serial No.38 of the said notification.

5. It is pertinent to note that on 21.08.2018, Smt. Lalita Devi (appellant No.2) sold her share to the extent of 1/3rd of the said agricultural land to the appellant No.1 herein i.e., Shri Madan Pal Gupta, besides filing an execution petition bearing No. 7744-49 of 2022 under Section 63 of the DLR Act before the SDM for the execution of the order dated 12.03.2021. The appellant No.1 also filed a civil suit bearing CS No. 1131/18 before the learned JSCC-cum-ASCJ-cum-GJ (District North), Rohini Courts, Delhi, for permanent and mandatory injunction against the respondent No.1 and Smt. Lalita Devi, seeking to restrain the respondent No.1 from creating any third party rights or raising any illegal construction on the said land, and wherein interim relief was granted to the appellant No.1 by the learned civil judge *vide* order dated 12.02.2019.

6. Reverting to the execution proceedings under the DLR Act, the SDM *vide* order dated 29.04.2022 directed the *Tehsildar* to partition the said land and deliver to the appellant No.2 possession of the said



agricultural land from its western side. Moreover, the appeal bearing No. 02/2021/DCCEN/2023/23722 filed by the respondent No.1 also came to be dismissed by the deputy commissioner on merits *vide* order dated 26.09.2023, thereby directing the SDM and DCP¹ North District, besides the SHO², Police Station Bhalswa Dairy, to ensure compliance of the order dated 29.04.2022.

7. Aggrieved by the order of the Deputy Commissioner, the respondent No.1 preferred a second appeal before the Financial Commissioner, Delhi, under section 66 of the Delhi Land Revenue Act, 1954, assailing the orders dated 26.09.2023 and 29.04.2022. Simultaneously, the respondent No.1 also preferred a writ petition bearing WP(C) No. 15300/2023 under Article 226 of the Constitution of India, 1950, before the learned Single Judge of this Court, *inter alia* seeking quashing of the orders dated 26.09.2023 and 29.04.2022 passed by the Deputy Commissioner and SDM respectively.

WRIT PROCEEDINGS AND THE IMPUGNED ORDER:

8. The learned Single Judge *vide* order dated 29.11.2023, stayed the second appeal proceedings before the Financial Commissioner, Delhi.

9. At the stage of arguments, it was brought to the fore that since Village *Mukandpur* stands urbanised by virtue of Notification dated 16.05.2017 issued under Section 507(a) of the 1957 Act, the impugned

¹Deputy Commissioner of Police

²Station House Officer



orders of the SDM and Commissioner, passed under the provisions of the DLR Act, consequently become *non est* in law.

10. Having regard to the same, while relying upon the decision rendered by the Supreme Court in **Mohinder Singh (Dead) Through LRs v. Narain Singh**³, the learned Single Judge *vide* order dated 09.04.2024, which stands presently impugned before us, disposed of the writ petition in the following terms:

“20. The Notification dated 16.05.2017 appears to predate the orders passed both by the Revenue Assistant, as also the Deputy Commissioner in first appeal. The judgment of the Supreme Court in **Mohinder Singh (Dead) Through LRs & Anr vs. Narain Singh & Ors (supra)** particularly para 36 is as under:

“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.”

21. Perusal of the aforesaid observation would clearly indicate that not only the provisions of DLR Act, 1954 would cease to apply, but also, according to the ratio, all pending proceedings as on the date of notification would also become non est in law.

22. In that view of the matter, it cannot be doubted that the aforesaid two impugned orders passed by the Revenue Assistant as also by the Deputy Commissioner in the First Appeal would become non est in law.

23. Though, the orders, post notification have been held to be non est in law, however, parties who are effected cannot be left without redressal mechanism.

24. In view of the judgment passed by a Coordinate Bench of this Court in **Radiance Fincap (P) Ltd. v. State (NCT of Delhi) reported in 2023 see OnLine Del 3432**, as also the judgment dated 14.03.2024 in **Praveen Jain vs. Financial Commissioner and**

³2023SCC OnLine SC 261



Ors. bearing **W.P.(C) 3827/2024**, passed by this Court, parties are at liberty to approach Civil Courts for redressal of their grievances, if any, within a period of 60 days from today.

25. In that view of the matter, the writ petition is allowed to the aforesaid extent and disposed of alongwith all pending applications with no order as to costs.”

ANALYSIS AND DECISION:

11. After hearing the arguments of the learned counsels for the parties, we hold that the impugned judgment dated 09.04.2024 cannot be sustained in law. This is because the learned Single Judge misconstrued the dictum of law as propounded in the case of *Mohinder Singh (supra)*. The case involved the purchase of part of the subject land by respondents Narain Singh and Som Dutt through a registered sale deed dated 04.05.1989 from Bhai Ram. Previously, Bhai Ram had obtained a registered sale deed dated 09.03.1970 from the recorded original bhumidaar, Maman Singh. The property was subsequently mutated in favour of Narain Singh and Som Dutt on 31.05.1989. However, the appellants claimed prior possession of the subject land, predating the registration of the sale deed in favour of Narain Singh and Som Dutt, and before their names were mutated in the records.

12. The appellants challenged the mutation order dated 31.05.1989 claiming adverse possession by filing appeal under Section 64 of the DLR Act. Following prolonged litigation, the Financial Commissioner set aside the order of mutation in favour of the respondents via an order dated 10.02.1995. The Commissioner held that the transfer



contravened Section 33 of the DLR Act, resulting in the land in dispute vesting in the Gaon Sabha.

13. The respondents challenged this order by filing a writ petition before this Court, which was dismissed via judgment dated 14.07.2008. On appeal, the Division Bench of this Court delivered a judgment on 22.11.2012, finding that the publication of the Notification dated 23.04.1982, exercising powers under Section 507(a) of the 1957 Act, urbanized the land in question. Consequently, the land ceased to be a rural area, rendering all proceedings under the DLR Act null and void. The parties were left to pursue their claims/disputes before the appropriate fora, with all legal pleas remaining available to them.

14. The matter ultimately reached the Supreme Court, which conducted an exhaustive review of the DLR Act in relation to the 1957 Act. The Supreme Court referred to the provisions of Sections 2(52), 2(61), 502, and 507 of the 1957 Act. It held that, by virtue of Section 2(52), 'rural areas' referred to areas of Delhi that fell within the local limits of the District Board of Delhi before the establishment of the corporation. However, this definition excluded areas that had been declared urbanized through a notification under Section 507, and thus ceased to be considered 'rural areas'. It was thus held as follows:

“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.”



15. As would be evident from the factual narration in the case of *Mohinder Singh (supra,)* the Notification under Section 507(a) of the 1957 Act had come about on 23.04.1982 and the execution of the sale deeds and the issue of mutation arose subsequent thereto. The key issue here is the timing of the Notification under Section 507(a) of the 1957 Act and its impact on the rights of the parties involved.

16. Evidently, the Notification was issued on 16.05.2017, which is crucial in determining the rights of the parties with respect to the subject agricultural land. As per Section 507(a) of the 1957 Act, the Corporation can declare a rural area to be urbanized through a notification, which would then include that area in the urban areas. This provision is relevant in this case, as it affects the legal status of the land in question. There is no gainsaying that although the rights of the parties were yet to be crystallized when the first suit (No. 73/RA/2003) was filed under Section 55 of the DLR Act, and the second suit (No. 360/RA/2008) was filed under Section 36 of the DLR Act, which suits sought partition of the agricultural land and grant of liberty to appellant No. 2 to transfer/sell her share, however, the determination of the legal right, title, or interest of appellant No. 2, Smt. Lalita Devi, and other co-owners/bhumidaars, is to be reckoned as on the date when the proceedings were filed. Notwithstanding the date of order dated 12.03.2021 passed by the SDM, the legal effect as regards such determination would relate back to the date of institution of the aforesaid suits/proceedings.



17. In view of the foregoing analysis, the impugned judgment dated 09.04.2024 passed by the learned Single Judge is hereby set aside and the matter is remanded back for adjudication of the disputes raised by the parties in W.P.(C) No. 15300/2023 to the learned Single Judge in accordance with law.

18. The present appeal stands disposed of accordingly.

YASHWANT VARMA, J.

DHARMESH SHARMA, J.

DECEMBER 10, 2024

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