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

+ **W.P.(C) 15377/2024**

ROHIT TANDON

.....Petitioner

Through: Mr. Pankaj Vivek, Mr. Atul Tripathi
and Mr. Sachin Kumar Sharma, Advocates.

versus

GOVT OF NCT OF DELHI & ORS.

.....Respondents

Through: Mr. Prashant Manchanda, ASC with
Ms. Nandini Aggarwal, Advocate for Respondents
No.1 to 3.

CORAM:

HON'BLE MS. JUSTICE JYOTI SINGH

ORDER

04.11.2024

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CM APPL. 64460/2024

1. Exemption allowed, subject to all just exceptions.
2. Application stands disposed of.

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

"i. Issue a writ of certiorari or any other similar writ, order or direction quashing the notice dated 20.07.2016 (Annexure P-1) in Form LR-48 issued by Respondent no. 2 i.e. Revenue Assistant/Sub-Divisional Magistrate (Mehrauli), New Delhi in Case No. 651/SDM/MEH./2016 titled as "Gaon Sabha Jonapur Vs Rohit Tandon" and consequently also quash all orders in the said case; and to terminate/close the said case, as well as, the pending proceedings under Section 81 of the Delhi Land Reforms Act, 1954 in respect of land of the Petitioner comprised in Khasra No. 7//8 Min(1-13), 9 Min(2-11), 9 min(1-10), 12 Min(1-9) & 13 Min(1-13) situated in Village Jonapur, Tehsil Mehrauli, Delhi"

4. As averred in the writ petition, it is the case of the Petitioner that he is the recorded owner and *Bhumidar* of land bearing Khasra No. 7//8 Min(1-



13), 9 Min(2-11), 9 min(1-10), 12 Min(1-9) and 13 Min(1-13) situated in Village Jonapur, Tehsil Mehrauli, Delhi ('subject land'). It is stated that by way of Gazette Notification dated 18.06.2013, the entire revenue estate of Village Jonapur was notified as Low Density Residential Area (LDRA).

5. Petitioner avers that he was using his land predominantly for residence and for animal husbandry with only couple of *pucca* rooms on about 2-3 Biswas of land out of 8 Bighas and 6 Biswas. The *Halka Patwari* submitted a report on 12.07.2016 basis which the learned SDM *suo moto* passed an order for initiation of case under Section 81 of the Delhi Land Reforms Act, 1954 ('1954 Act') being Case No. 651/SDM/MEH/2016. Notice in Form LR-48 was allegedly issued by the SDM on 20.07.2016 but the same was never received by the Petitioner and even the restraint order dated 20.07.2016 was not served on him.

6. It is averred that without ensuring service of the notice, a conditional decree was passed by the learned SDM on 29.07.2016 and it is only when this was notified to the Petitioner by notice dated 08.12.2016, he learnt of the proceedings. Petitioner was asked to appear on 13.01.2017 but could not do so as he was incarcerated from 28.12.2016 to 17.08.2017. On being released on bail on 07.08.2017, Petitioner filed an application for setting aside *ex parte* order under Appendix VI, Rule 14 of Delhi Land Reform Rules, 1954 along with application for condonation of delay. Reply to the show cause notice was also filed on 31.08.2017. By order dated 23.07.2018, the *ex parte* decree was set aside and the vesting order dated 29.07.2016 ceased to exist and the proceedings under Section 81 of 1954 Act resumed. Petitioner received a notice dated 12.07.2024 for a hearing on 05.08.2024, however, in the meantime, a significant development took place when



Village Jonapur was urbanised by Notification dated 20.11.2019 issued under Section 507(a) of the Delhi Municipal Corporation Act, 1957 ('1957 Act').

7. Petitioner has approached this Court with a prayer that pending proceedings under Section 81 of 1954 Act be declared as *non est* and *void* in light of the Notification urbanising Village Jonapur within which Petitioner's land in question is situated. Petitioner relies on the judgment of the Supreme Court in ***Mohinder Singh (Dead) Through LRs and Another v. Narain Singh and Others, 2023 SCC OnLine SC 261*** as well as the decisions of this Court in ***Smt Indu Khorana v. Gram Sabha & Ors, 2010 SCC OnLine Del 1334*** and ***Rajeev Shah through LR Ms. Gayatri Shah v. Government of NCT of Delhi and Others, 2023 SCC OnLine Del 2023***.

8. Learned counsel for Respondents fairly concedes that consequent to urbanization of Village Jonapur, proceedings pending before Respondent No.2 have become *non est* in view of the judgment of the Supreme Court in ***Mohinder Singh (supra)*** and cannot continue.

9. Having heard learned counsels for the parties, there is merit in the contention of the Petitioner that proceedings pending before Respondent No.2 in Case No. 651/SDM/MEH/2016 titled as "*Gaon Sabha Jonapur Vs Rohit Tandon*" have become *non est* and cannot continue in view of the judgment in ***Mohinder Singh (supra)***, wherein the Supreme Court has held 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."



10. In this context, reliance is also rightly placed on the decisions of this Court in *Smt Indu Khorana (supra)* and in *Rajeev Shah (supra)*.

11. In view of the above, the proceedings in Case No. 651/SDM/MEH/2016 titled as "*Gaon Sabha Jonapur Vs Rohit Tandon*" are hereby quashed and set aside being *non est* and without any legal significance.

12. Petition is allowed and stands disposed of.

JYOTI SINGH, J

NOVEMBER 4, 2024/B.S. Rohella/shivam