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

+ **W.P.(C) 16130/2024**

AMITA RANI

.....Petitioner

Through: Mr. Anubhav Kumar and Ms. Gauri
Swarup Bansal, Advocates.

versus

**GOVERNMENT OF NCT OF DELHI THROUGH COLLECTOR
(SOUTH) & ORS.**

.....Respondents

Through: Mr. Rishikesh Kumar, ASC with Ms.
Sheenu Priya, Mr. Vikas Saini, Mr. Atik Gill,
Mr. Sudhir Kumar Shukla and Mr. Sudhir,
Advocates for GNCTD.

CORAM:

HON'BLE MS. JUSTICE JYOTI SINGH

ORDER

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21.11.2024

C.M. APPL. 67771/2024

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

W.P.(C) 16130/2024 & C.M. APPL. 67770/2024

3. 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, order or direction in the nature of prohibition thereby restraining the Respondent no .1 from proceeding further in the proceedings pending before the Ld. Collector (South) M.B. Road Saket, New Delhi U/s 185 of the Delhi Land Reforms Act, 1954, bearing 105/2014 titled "Gram Sabha Dera Mandi Through B.D.O. vs. Probodh Kumar and Ors." in respect the land comprised in Khasra No. 9012 (4-16), 9 (4-16), 12/1 (0-12), 12/3 min (2-04) and Khasra No. 19/1 (3 -04) situated in Village Dera Mandi, Tehsil South West, Delhi;

b) Issue a writ, order or direction in the nature of certiorari thereby quashing /setting aside the above proceedings for being null, non-est and void for patent lack of jurisdiction.



c) Issue a writ, order or direction in the nature of mandamus directing the concerned authority to mutate the name of the Petitioner in respect of the land comprised in Khasra No. 90/2 (4-16), 9 (4-16), 12/1 (0-12), 12/3 min (2-04).

4. It is the case of the Petitioner in the writ petition that in the year 2003, proceedings were initiated with respect to land comprised in Khasra No. 90/2, 9, 12/1, 12/3, 90/1 situated in Revenue Estate of village Deramandi, New Delhi in Case No.541/2003 titled “**Gaon Sabha, Deramandi vs. Prabhodh Kumar and Ors.**” under Section 81 of the Delhi Land Reforms Act, 1954 (‘1954 Act’). On 14.12.2004, husband of the Petitioner late Bhupinder Paul Gupta purchased Farm Land measuring 12 Bighas 8 Biswas bearing Khasra No. 90/2 (4-16), 9 (4-16), 12/1 (0-12), 12/3 min (2-04) situated in Village Dera Mandi, Tehsil South West, Delhi from Shri Prabhodh Kumar Virmani and Smt. Kalyani Virmani vide Sale Deed dated 14.12.2004 with encumbrances and pending legal proceedings and vide another Sale Deed dated 14.12.2004, Petitioner purchased Farm Land measuring 4 Bighas 16 Biswas, bearing Khasra No. 90/12/3 min (1-12), 19/1 (3-04) situated in the same village from Shri Prabhodh Kumar Virmani and Smt. Kalyani Virmani with encumbrances and pending legal proceedings. Petitioner is stated to be in physical possession of the aforesaid land.

5. It is averred that notice dated 30.07.2012 was issued to the Petitioner by the learned SDM through *Halka Patwari* in Case No. 541/2003 with respect to land comprised in Khasra No. 90/2 (4-16), 9 (4-16), 12/1 (0-12) 12/3 min (2-04) and Khasra No. 19/1 (3-04) situated in Village Dera Mandi, Tehsil South West, Delhi (hereinafter referred to as the ‘subject land’). Learned SDM vide order dated 24.03.2014 dropped the proceedings under Section 81 of the 1954 Act on the ground that the subject land was being



primarily used for agricultural activities. Aggrieved with the said order, Gram Sabha/Respondent No. 2 filed an Appeal bearing No. 105/2014 under Section 185 of 1954 Act assailing the order and the appeal is pending.

6. As per the Petitioner, during the pendency of the appeal, Village Deramandi has been urbanised vide Notification dated 20.11.2019 issued under Section 507(a) of Delhi Municipal Corporation Act, 1957 ('1957 Act') and in light of this, Petitioner has approached this Court to declare pending proceedings as *non est* placing reliance on the judgment of this Court in ***Mohinder Singh (Dead) Through LRs and Another v. Narain Singh and Others, 2023 SCC OnLine SC 261***, and of this Court in ***Rajiv Shah through LR Ms. Gayatri Shah v. Government of NCT of Delhi and Others, 2023 SCC OnLine Del 2023***.

7. Issue notice.

8. Mr. Rishikesh Kumar, learned ASC accepts notice on behalf of the Respondents and assures the Court that the pending appeal will be taken up for consideration on the preliminary issue raised by the Petitioner that the proceedings are no longer valid in view of the judgments relied on since the village where the subject land is situated stands urbanised.

9. In the present case, the learned SDM dropped the proceedings initiated under Section 81 of the 1954 Act in relation to the subject land vide order dated 24.03.2014 on the ground that the land was being used primarily for agricultural activities. This order was taken up in appeal by the Gaon Sabha and the appeal is pending. During the pendency of the appeal, Village Deramandi in which the subject land is situated has been urbanised and this has triggered the present writ petition. Therefore, the Appellate Authority is required to take a decision as to whether the appeal can continue taking into



account the judgment of the Supreme Court in *Mohinder Singh (supra)* and the other judgments on the subject.

10. Accordingly, without entering into the merits of the case, this writ petition is disposed of directing the Appellate Authority to take up the appeal for consideration on the preliminary issue whether the proceedings under the appeal can continue in light of the urbanisation notification and the judgements on the subject and proceed further depending on the decision on the said issue. Appeal will be taken up for consideration as expeditiously as possible and not later than four weeks from the date of receipt of this order and after hearing the parties to the *lis*, decision will be taken not later than two months after expiry of the four weeks period aforementioned.

11. Needless to state it will be open to the respective parties to take recourse to legal remedies against the decision taken by the Appellate Authority in accordance with law.

12. Pending application also stands disposed of.

JYOTI SINGH, J

NOVEMBER 21, 2024/shivam