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

+ W.P.(C) 16638/2024 & C.M. APPL. 70371/2024

SMT. MANJULA SINGHALPetitioner

Through: Mr. Pankaj Vivek, Advocate.

versus

GOVT. OF NCT OF DELHI & ORS.Respondents

Through: Ms. Rachita Garg, Mr. Agam Rajput
and Ms. Preeti, Advocates for
Respondents/GNCTD.

CORAM:

HON'BLE MS. JUSTICE JYOTI SINGH

ORDER

03.12.2024

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1. This writ petition has been preferred on behalf of the Petitioner under Article 226 of the Constitution of India for a direction to Respondent No. 2 to dismiss Appeal No.4/2010 titled '*Gaon Sabha Samalka v. Smt. Manjula Singhal and others*' pending in the Court of Collector/District Magistrate (New Delhi)/Respondent No.2 in view of urbanisation of Village Samalka, Tehsil Vasant Vihar, vide Notification dated 20.11.2019 under Section 507(a) of the Delhi Municipal Corporation Act, 1957 ('1957 Act').

2. Facts to the extent necessary are that in the year 1988, proceedings under Section 81 of the Delhi Land Reforms Act, 1954 ('1954 Act') were initiated in respect of Petitioner's land being 4 Biswas in Khasra No. 10//15(4-16) situated in village Samalka. The proceedings were dropped by the learned SDM vide order dated 22.05.2000 and appeal filed by the Gaon Sabha against the said order was dismissed on 01.02.2001. The dismissal



was challenged by the Gaon Sabha in Revision Petition 193/01-CA, which was decided by the learned Financial Commissioner, Delhi on 16.01.2007 and he affirmed the order with respect to Khasra No. 10//15 but remanded the matter back to the Revenue Assistant/SDM to make an inquiry in respect of Khasra No.10//14 in village Samalka, which is also owned by the Petitioner.

3. Petitioner avers that an ex-parte conditional order of vesting was passed on 02.07.2008 followed by final vesting order on 09.02.2009, whereby Khasra No.10//14 was vested in Gaon Sabha, Samalka. Petitioner's application under Appendix VI Rule 14 of the Delhi Land Reforms Rules, 1954 for setting aside the ex-parte orders was allowed vide order dated 26.10.2009. Petitioner was directed to file reply to the original proceedings under Section 81 of 1954 Act. Gaon Sabha did not file any appeal or revision against the order and same has attained finality. The Halka Patwari jointly inspected Khasra No.10//14 and submitted a report dated 01.12.2009 pointing out that as per land record, area of Khasra No.10//14 was 2 Bighas and 9 Biswas, out of which there existed a *Kachha rasta* on 3 Biswas, Guard Room on 1 Biswa, trees on 16 Biswas and agricultural activity in 1 Bigha and 10 Biswas. After perusing the material on record, the learned SDM passed a final order dated 14.12.2009, closing/dropping the proceedings under Section 81 of 1954 Act after rendering a finding that the land in question was being used for agricultural purpose. This order was challenged by the Gaon Sabha in Appeal No.4/2010 from which this writ petition emanates. The appeal is stated to be pending.

4. It is the case of the Petitioner that by Gazette Notification dated 18.06.2013, entire village Samalka was notified as Low Density Residential



Area ('LDRA'). During pendency of the appeal, another development took place and vide Notification dated 20.11.2019 under Section 507(a) of the 1957 Act, village Samalka has been urbanised. Based on these developments, Petitioner filed written arguments on 19.04.2021, before Respondent No. 2 bringing to his notice that the subject land was being used as agricultural land although developed as a farm house, after obtaining sanction from MCD and praying that in view of the village being declared as LDRA and subsequently urbanised, the appeal be dismissed. As the appeal is not being taken for substantive hearing and its very maintainability is now in question, Petitioner has approached this Court and reliance is placed heavily 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***, more particularly paragraph 36 thereof.

5. Issue notice.
6. Ms. Rachita Garg accepts notice on behalf of Respondents.
7. Having heard learned counsels for the parties, this Court is of the view that there is merit in the contention of the Petitioner that in light of the urbanisation of village Samalka, the appeal be heard at the earliest and decision be taken on the jurisdiction of Respondent No. 2 to proceed further. Court is apprised that appeal has not been listed after 2023. Accordingly, this writ petition is disposed of with a direction to Respondent No. 2 to take up the appeal as expeditiously as possible and not later than eight weeks from today and hear the respective parties first on the jurisdiction aspect. Advance intimation of the date of hearing shall be given to both the parties in the mode prescribed as per procedure.
8. Petition along with pending application stands disposed of in the



aforesaid terms.

9. It is made clear that this Court has not gone into the merits of the case.

JYOTI SINGH, J

DECEMBER 3, 2024

B.S. Rohella