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

Decided on: 15.07.2025

\+ W.P.(C) 5172/2014 & CM APPL. 10296/2014

MANJU GUPTA .....Petitioner

Through: Mr. Akhil Sibal, Senior Advocate with Mr. Nikhil Chawla, Ms. Aditi Sharma, Ms. Janvhi Sindhu & Mr. K.D. Yadav, Advocates.

versus

GOVT. OF NCT OF DELHI & ANR .....Respondent

Through: Mr. Anubhav Gupta, Panel Counsel (Civil), GNCTD.

CORAM:
HON'BLE MR. JUSTICE PRATEEK JALAN

PRATEEK JALAN, J. (ORAL)

1. The petitioner has filed this petition under Article of 226 of the Constitution, challenging an order dated 26.05.2014, passed by the Revenue Assistant/Sub-Divisional Magistrate ["SDM"], Saket, under Section 81 of the Delhi Land Reforms Act, 1954 ["the Act"], in respect of her agricultural land comprising 4 Bigha 16 Biswas in *Khasra Nos. 272/2 min (2-8), and 273 min (2-8) in the revenue estate of Village Satbari, New Delhi* ["the subject land"]. By the impugned order, the subject land has been vested in the *Gaon Sabha*.

2. I have heard Mr. Akhil Sibal, learned Senior Counsel for the petitioner, and Mr. Anubhav Gupta, learned counsel for the respondents.

3. The case of the petitioner is that she purchased the subject land by

a sale deed dated 09.02.2001 from one Mr. Sunil Bedi who, in turn, had acquired the subject land in the year 1995 through registered sale deeds. In the year 2003, the petitioner was served with a show cause notice under Section 81 of the Act. According to the petitioner, no further communications were received from the respondent until 06.03.2014, when she was asked to appear before the SDM on 11.03.2014. The petitioner, in fact, was represented before the SDM by her husband on two dates [03.04.2014 and 17.04.2014] when proceedings were not held, and the case was adjourned to 13.05.2014. On that date, the petitioner's husband was unable to attend due to the petitioner's serious indisposition.

4. Although no fresh date of hearing was fixed, the petitioner then received the impugned order dated 26.05.2014, which reads as follows:-

> "*This Order shall dispose -off the proceedings under section 81 of the Delhi Land Reforms Act, 1954 against the abovementioned respondent, for the agricultural land comprising Khasra No. 272/2, 273 situated in the revenue estate of Village Satbari, New Delhi.*
>
> ***The proceedings in the present case were instituted in the year 2003*** *by the Court of Revenue Assistant/SDM (Hauz Khas), GNCTD on the basis of reply give to Lob Sabha U5Q no. 3163 that the abovementioned agricultural land under the bhumidari of the respondent is being used for non agricultural purposes. Accordingly, notices were issued to the respondent. The records show that the respondent never cared to put any defense before this court.*
>
> *The present case was received in this court from the O/o SDM (Mehrauli) on trifurcation of the Revenue district - south and redefining of the jurisdiction of all sub-divisions.* ***Accordingly, fresh notice were issued to the respondent. On 06.04.2013, a conditional order was issued by the then Revenue Assistant/SDM with the direction to the respondent to convert back the land to the agricultural use within a period of 03 months from the date of order. The next date fixed for observing compliance of the conditional order was 09.07.2013. The case was subsequently taken up on various dates, but again there was no response from the respondent. The matter was finally taken up for hearing on 13.05.2014, wherein the counsel for Gram Sabha, Shri V P Yadav pleaded hard that enough opportunities have been granted to the***

<u>respondent. Hence, the matter was reserved for Order's,</u>

I have considered the material available on file. The present ***<u>case was instituted in the year 2001, and a Conditional Order was issued on 06.04.2013. Despite several opportunities the respondent has failed to avail the same and have not filed the compliance report.</u>*** *The proceedings u/s 81 of DLR Act, 1954 are meant to be summary in nature and cannot be allowed to linger on for longer period. Hence, in view of the above discussed, I am inclined to accept the contentions of the Counsel for Gram Sabha and do hereby order that the Conditional Order dated 06.04.2013 is hereby made absolute and the suit land mentioned above be vested in Gaon Sabha. The respondent is ejected therefrom from the suit land.*

Announced in the open court on 13.05.2014.

Given under my hand & seal of this court on this 15th day of May, 2014."[1]

5. The petitioner has specifically contended in the writ petition, that the petitioner was never served with the "*conditional order*" dated 06.04.2013, referred in the impugned order, or with any notice of hearing, other than notice dated 06.03.2014 referred to above. Mr. Sibal draws my attention to the specific averment of the petitioner to this effect, in paragraph 10 of the writ petition:-

"*10. It is submitted that* ***<u>the Petitioner has no knowledge of any conditional order dated 06.04.2013</u>*** *passed in case NO.804/RA/HK/2003. The Respondents did not issue any intimation or notice to the Petitioner of the impugned conditional order dated 06.04.2013. The conditional order dated 06.04.2013 was passed in the absence of the Petitioner and that the Petitioner was completely unaware of any such order dated 06.04.2013 passed by the Respondent No. 3.*"[2]

6. The petitioner's averment in paragraph 10 of the writ petition has been dealt with in the respondent's counter affidavit dated 23.03.2016, as follows:-

"*10. The contents of this para are denied* ***<u>as notice from the Court of</u>***

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[1] Emphasis supplied.
[2] Emphasis supplied.

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Signing Date:17.07.2025 19:47:42

> ***RA/SDM was issued prior to the Conditional Order dated 06.04.2013.*** *The Conditional Order was passed considering the long pendency of the matter and non-response from the respondents.*"[3]

7. It is evident from the impugned order dated 26.05.2014 that the principal ground upon which orders have been passed, vesting the subject land with Gaon Sabha, is that the petitioner has not complied with the conditional order dated 06.04.2013, requiring her to convert her land to agricultural use within the period of three months. The impugned order proceeds on the basis that there was no response from the petitioner herein, and the matter was therefore taken up for hearing on 13.05.2014, and reserved for orders.

8. It may first be observed that the case had been pending since 2003, and even on the respondent's own showing, no communication was issued to petitioner between 2003 and 2013. The petitioner sates that she was represented on two dates of hearing, but the hearing did not take place on those dates.[4] This has not been denied by the respondents.[5] In these circumstances, the respondent would have done well to grant a further opportunity to the petitioner to appear, rather than to reserve orders on the one date of hearing when she was not represented.

9. Be that as it may, the substantive issue with regard to issuance and service of the conditional order, upon which the impugned order is predicated, is sufficient to invalidate the impugned order. Although the impugned order refers to the conditional order dated 06.04.2013 repeatedly, the conditional order has not been placed on record with the

[3] Emphasis supplied.
[4] Paragraph 8 of the writ petition.
[5] Paragraph 8 of the counter affidavit.

counter affidavit. The respondent was directed on 19.08.2014, 28.10.2014 and 06.01.2015 to produce the record before the Court. The counter affidavit was filed well thereafter, but no such order was placed on record. On 28.02.2023 also, the respondent was granted time to produce the records of the Revenue Authority. No such record has been filed, and none is produced.

10. Mr. Gupta today submits that the record of the appeal filed by the petitioner before the District Magistrate is available in Court, but the record relating to the conditional order is not available therein, either. Mr. Gupta seeks further time to produce the record relating to the conditional order. However, I am of the view that such a course is unnecessary in view of the fact that even in the counter affidavit, the position taken by the respondent is that notices were served upon the petitioner only "*prior to the conditional order dated 06.04.2013*". There is not even an averment to the effect that the conditional order was served upon the petitioner.

11. In these circumstances, the passing of a vesting order solely on the basis that the conditional order had not been complied with is, in my view, unjustified.

12. A further question has been raised in these proceedings, as recorded in the order dated 28.11.2023, as to the jurisdiction of the revenue authorities to continue with the proceedings after urbanisation of the village in question by notification dated 20.11.2019, under Section 507(a) of the Delhi Municipal Corporation Act, 1957. Mr. Sibal relies, in support of this aspect of the challenge, upon the judgment of the Supreme Court in *Mohinder Singh (Dead) Thr. LRs v. Narain Singh & Ors.*

[(2023) 19 SCC 535] [hereinafter, "*Mohinder Singh*"]. Mr. Gupta, however, submits that the effect of the judgment in the *Mohinder Singh,* in a case like the present one, when a vesting order had already been passed prior to urbanisation, is pending before the Full Bench in Original Reference No. 1/2024.

13. Having regard to the finding that the impugned order is, in any event, untenable on the grounds recorded above, the effect of urbanisation does not require final adjudication at this stage. Mr. Sibal suggests that the matter may be remanded to the Revenue Assistant for fresh consideration upon hearing the petitioner, and the question of jurisdiction may also be left open for determination by the Revenue Authorities.

14. Having regard to the above, the impugned order dated 26.05.2014, under Section 81 of the Act, is set aside, and Case No. 804/RA/HK/2003 is remanded to the Revenue Assistant for a fresh decision in accordance with law. Parties are also free to raise the question of jurisdiction, including the effect of the judgment in *Mohinder Singh,* before the Revenue Assistant.

15. All rights and contention of the parties remains reserved.

16. The writ petition, alongwith the pending application, stands disposed of with these observations.

PRATEEK JALAN, J

JULY 15, 2025
'pv'/AD/