



OFFICE OF THE SUB DIVISIONAL MAGISTRATE (KAPASHERA)
GOVT. OF NCT OF DELHI

OLD TERMINAL TAX BUILDING, KAPASHERA, NEW DELHI-110037

No. F./SDM/KPH/Court Case/2019/ 26146

Dated: 24/4/2019

Case ID:- 20534

Case No. 49/111/2018

U/s: - 81 of DLR Act, 1954

In the matter of:

Gaon Sabha Chhawla

Vs

Sheetal Garden Party Lawn

.....Petitioner

.....Respondent

ORDER

This order shall dispose off the present petition filed by Ms. Manju Jain U/s 82(2) of DLR Act, 1954 to restore the land bearing Khasra Nos. 10//6 (4-16), 7 (2-0), 11//9 (4-16) & 10 (4-16) situated in the revenue estate of village Chhawla, New Delhi.

The respondent Ms. Manju Jain had filed the present petition on the plea:-

- That Mrs. Manju Jain w/o Shri Ashok Kumar Jain is bhumidhar & in possession of the land in question and the party lawn was used to run from the suit land under the name and style of Sheetal Garden Party Lawn.
- That two proceedings came to be filed before this Court U/s 81 i.e. 49/54/2017 & 49/64/2017 one against Mrs. Manju Jain & second against Sheetal Garden Party Lawn. Both were consolidated & were disposed off, vide common order dated 06/06/2018. Vide the said order the suit land was ordered to be vested into Gram Sabha. However, the Court further directed that in accordance with the provisions of section 82 of the DLR Act, the order of vesting of land will not be executed if the respondent repairs the damage to the suit land or put it back to agriculture or related uses within three months from the date of issuance of the order.
- That without prejudice to the fact that the respondent got the building plan sanctioned from the Municipal Authorities for construction of a farm House on the suit land vide sanction letter dated 24/03/1986 and also obtained completion certificate from the Municipal Authorities vide their letter dated 13/01/1988 and without going into the merits of the order dated 06/06/2018, the respondent to bring an end to the said litigation once for all, abided by the order of this Court by converting the suit land into pure agriculture one and removed all alleged mis-uses from suit land



Nitin Jindal
24/4/19

once for all within the stipulated period of 3 (three) months from the date of such order. The photographs also produced showing cultivation in the suit land.

- d) That there is no alleged violation of any of the provisions of section 81 of the DLR Act. The entire land is now restored back to agriculture use, save and except one small house thereon, which is used for the purposes connected with the agriculture only.

The present matter pertains to the order dated 06/06/2017 passed by the then RA/SDM (Kapashera) in two similar cases i.e. 49/54/2017 & 49/64/2017 wherein the RA/SDM had observed that the land is not being used for agriculture purposes which violates the section 81 of DLR Act, 1954 hence the land in question was vested in the Gram Sabha.

Further, the counsel for respondent has informed that construction over the suit land is less than 1% and the same has been approved by the MCD. The respondent also produced the sanction letter along with the map and copy of the same is on record.

On going through the entire matter it has been observed:

That the construction raised by the respondent over the suit land is approved by the competent authority i.e. MCD and the MCD has also issued a completion certificate on 13/01/1988 for the same. Copy of the same is on record.

That the respondent are using the land in question for agricultural purposes only except a dwelling unit and there is no violation of provisions of section 81 of DLR Act.

*That as per circular dated 03/07/2013 issued by Cabinet decision no. 2032 dated 15/06/2013, the cabinet has considered and approved the proposal as contained in para N. 14 of the cabinet decision which is reproduced here in below:

*In view of the submission made above and taking into consideration the observation made by the Hon'ble Court in various judgement as cited above, the Cabinet may consider the following proposal:-

The provisions of DLR Act, 1954 shall not apply on the buildings in respect of which building plans have been sanctioned by competent authority or permission granted under amendment of Master Plan."

That according to section 3(12) of the DLR Act any recorded bhumidhar has a right to make improvement in the land and has a right to construct a dwelling house on his land which must be connected with agriculture, horticulture, Pisciculture, animal husbandry, poultry farms & fisheries. And the land in question is being used for connected with the agricultural purposes only & there is no violation of the provisions of the section 81 of DLR Act, 1954.

Moreover, the Halqa Patwari also submitted report dated 16/11/2018 submitting that the land in question is being used for agricultural purposes only except a dwelling house which is over less than 1% of suit land.



Nishi Jindal
24/2/19

In view of above observations, circumstances & facts of the said case, the undersigned is of the view that the proceedings U/s 81 of DLR Act, are not maintainable in the present matter & hereby drops the proceedings under section 81 of DLR Act, on the Khasra Nos. 10//6 (4-16), 7 (2-0), 11//9 (4-16) & 10 (4-16) situated in revenue estate of village Chhawla, New Delhi.

File to be consigned to the record room.



Nitin Jindal
(NITIN JINDAL) 21/1/14

RA/SDM, KAPASHERA

Copy to:

1. All of the concerned Parties.
2. Tehsildar (Kapashera), with the direction to update revenue records accordingly.
3. Guard file.

NITIN JINDAL
Sub-Divisional Magistrate (Kapashera)
South-West District, (GNCT.)
Old Terminal Tax Building
Kapashera, New Delhi- 110037