

III

**IN THE COURT OF COLLECTOR, DISTRICT : SOUTH-WEST
OLD TERMINAL TAX BUILDING, KAPASHERA, NEW DELHI**

No. 54480

13/8/19

Appeal No.:32/13

Case ID: 11803

Nand Kishore Appellant

Vs.

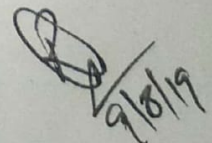
Gaon Sabha Jainpur Respondent

ORDER

By this order I shall dispose off the present appeal filed by the appellant against the order dated 30.04.2013 passed by SDM/RA in case No. 370/2008 whereby the appellants were ejected from Kh. No. 29/21 (4-16), 22 (4-16), 23 (1-6), 30/1 (4-16), 2(5-8), 30/9 (4-16), 10 (4-16), 11 (4-16), 12 (4-16), 12 (4-5), 19(3-13), 20 (4-16) of Village Jainpur.

Contention of Appellants:

1. Appellant is in cultivator possession of above land since 1978.
2. Being in continuous cultivator possession of above land, appellant filed a suit U/s 85 of DLR Act vide No. 55/NG/2000 for declaration of Bhumidari Rights. Then the respondent has initiated proceedings U/s 86A of DLR Act against the appellant vide case No. 100/2006.
3. The SDM/RA passed the order dated 04.04.2007 without giving proper opportunity of being heard.
4. SDM/RA, Delhi Cantt. Arbitrary dismissed the case u/s 85 of DLR Act vide order dated 04.06.2007 relying solely upon order dated 04.04.2007 in case u/s 86A of DLR Act.
5. Apprehension of being evicted from the suit land appellant has filed a civil suit No. 149/2007 in the court of Ld. CJ, Ms. Ruchi Aggarwal Asrani, Tis Hazari, Delhi, in which injunction order had been granted in favour of appellant vide order dated 02.04.2009.
6. That again the suit u/s 86A vide No. 370/2000 had been initiated against the appellant.
7. Appellant relied upon Khasra & girdawari of year 2005-08 in his name.
8. The impugned order of RA is in utmost disregard to injunction order dated 02.04.2009 of the Civil Judge, Dwarka.
9. The order has been passed in disregard to principle of natural justice.
10. The proceedings u/s 86A is barred by limitation period of 3 years.


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Contention of Respondent:

1. The order of dismissal of case u/s 85 of appellant vide no. SS/NG/2000, after dismissal never been challenged by the appellant by filing appeal.
2. Appellant has no right, title, interest in the land. Appellant is misrepresenting the civil as well as revenue courts.
3. The impugned order is proper as the same has been passed by issuance of show cause notices & hearing / appearances of appellant.

Proceedings:

An application u/s 22 rule 3 was allowed for taking on records the LRs of deceased appellant.

BDO Report:

That as per the report the possession of the suit land had been taken on 11.06.2007.

Observation:

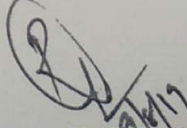
That on perusal of record, it is clear that entries in the revenue records i.e. form P-5A is present in favour of appellant for year 2005 to 2008.

And the appellant has filed present appeal on affidavit stating that he is in possession of suit land.

Thus there is an ambiguity in the contention of Gram Sabha & appellant with regard to possession. Also, it is essential to examine in detail if the entries for year 2005-2008 was made in form P-5A in favour of appellant as per the relevant provisions of the Delhi Land Revenue Rules.

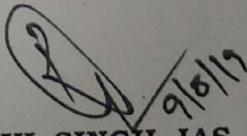
Conclusion:

In view of the above facts and observations, this court remands the case back to the SDM/RA for adjudication afresh.


RAHUL SINGH, IAS
(COLLECTOR, SOUTH WEST)

Copy to:

1. Both the parties
2. SDM/RA (Kapashera)
3. Guard File
4. System Analyst


RAHUL SINGH, IAS
(COLLECTOR, SOUTH WEST)