



IN THE COURT OF DISTRICT MAGISTRATE KAPASHERA
DISTRICT: SOUTH - WEST
OLD TERMINAL TAX BUILDING
KAPASHERA NEW DELHI -110037

Ref. No. 11841
Appeal No.: 59/15
Case No. 18/09/2015

Dated: 20/02/2020

U/S:185 DLR ACT

Omwati

..... Appellant

Vs

Gram Sabha Kharkhari Jatmal

..... Respondents

ORDER

Vide this order I shall dispose off the present appeal filed against the order dated 14.09.2015 passed by SDM/RA in case no. 20/91 and case no.112/2010 under section 86A of DLR ACT whereby the appellant was ordered to be ejected from the land bearing khasra no.35/15 (4-16), of village Kharkhari Jatmal.

BRIEF FACTS OF THE CASE:

That the appellant was allotted with the suit land bearing Kh. No. 35/15 (04-16) under 20 point program on 26.11.1976, thereafter appellant filed a case under section 74(4) of DLR Act 1954. That with respect to the suit land a case was filed under section 74(4) for declaration of bhumidhar in the year 1991, which was decided on 29.01.1993, and the appellant was ordered to be ejected from the suit land. Now again a suit for ejection has been filed by the gram sabha under section 86A of DLR Act.

ISSUE: Whether institution of a case for ejection of the allottee of a 20 point program is maintainable when the allottee has already been ejected under section 74 (4) of DLR Act?

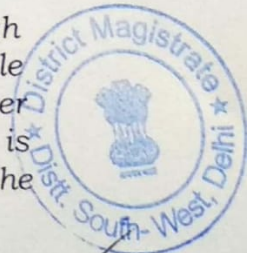
That during the proceedings the appellant has filed a amended memo of parties in order to implead Department Of Forest as party in the present appeal as the suit land has been allotted to the forest department.

OBSERVATION:

It is observed that the two cases, case no.20/1991 titled as Ram Kumar Vs. G.S Kharkhari and case no.112/2010 G.S Kharkhari Vs. Omwati had been decided vide common order dated 11.9.2015, which is impugned in this appeal.

However, during the course of arguments the forest department submitted an order dated 29/01/1993 passed in a case no. 114/89 ,under section 74(4) of DLR Act filed on date 02/06/1987 titled as Ram Kumar vs. G.S Kharkhari Jatmal. And in that order Sh.Ram Kumar was ejected from the suit land. The operating para of order dated 29.01.1993 is reproduced below:-

"On hearing the arguments of the Ld. Counsel Of Gaon sabha and going through the documentary evidence filed by the petitioner , I am of the view that while allotting the land in question proper procedure was not followed and petitioner Sh.Ram Kumar failed to satisfy the court about his claims. The said land is hereby vested in gaon sabha and Shri Ram Kumar is liable to be ejected from the suit land. Order Accordingly."

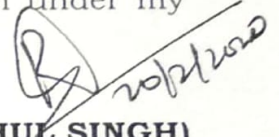


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CONCLUSION:

In the view of the above facts and observations, the undersigned dismiss the present appeal with the finding that the case no.20/1991 titled as Ram Kumar Vs. G.S Kharkhari and case no.112/2010 G.S Kharkhari Vs. Omwati, which had been decided vide common order dated 11.9.2015, were not maintainable at the trial court of SDM/RA. As the ejection order dated 29.01.1993 in case no. 114/89, under section 74(4) of DLR Act titled as Ram Kumar vs. G.S Kharkhari Jatmal already attained the finality in absence of any appeal.

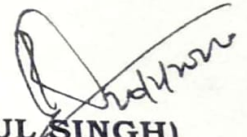
Pronounced in the open court today on date 20.02.2020 and given under my seal and signatures.



(RAHUL SINGH)
Collector (South West)

COPY TO:

1. Concerned Parties
2. Tehsildar Kapashera with direction to update revenue records accordingly.
3. Guard File



(RAHUL SINGH)
Collector (South West)