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

No - 12835
Case. I.D.: 16020
Case No.: 61/2016

Dated: 26/02/2020
U/S: 185 DLR ACT

Purshottam & ors

..... Appellant

Versus

Gaon Sabha Rewla Khanpur

..... Respondents

ORDER

Vide this order I shall dispose off the present appeal filed against the order dated 19.10.2015 passed by SDM/RA in Case no. 51/2014, whereby the petition filed under Section 11 of DLR Act, with respect to land bearing khasra no.343/2 (0-6) of village Rewla Khanpur, has been dismissed.

CONTENTION OF THE APPELLANT:

That the predecessor in interest of the appellants was the owner of the suit land as per the revenue record prior to commencement of Delhi land reforms Act. The predecessor in interest of appellant had constructed a well in the suit land prior to commencement of DLR Act, and the revenue authority without considering this fact that the private well was present in a private suit land vested the same in Gaon sabha. That the SDM /RA passed the ejection order dated 23.08.1969 and thereafter on being aggrieved an appeal was filed before the additional collector and the order of the SDM was set aside vide order dated 24.12.1969 and the gaon sabha had not filed any appeal against that order. That the appellants and predecessor in interest in continuous possession of the suit land before the Independence. The mistake committed at the time of commencement of DLR Act has been continued since then. That in order to get his rights in suit land a suit under section 11 was instituted by the appellant and the same was dismissed by the impugned order. The impugned order was passed without following the procedure established by the law.

CONTENTION OF THE GRAM SABHA:

The petition under section 11 of the DLR Act is barred by the time and has been filed after a long delay of 60 years. And for this, two Judgements have been relied by the gaon sabha: "MANGTU VS. FINANCIAL COMMISSIONER" and "RAM NIWAS VS. FINANCIAL COMMISSIONER & ORS". Relying upon the judgment furnished, the Gaon sabha submitted that the petition under section 11 cannot be filed after the expiry of the 60 years.

WRITTEN SUBMISSION ON BEHALF OF APPELLANT:

1. The judgements relied upon by the Gram sabha "MANGTU VS. FINANCIAL COMMISSIONER" and "RAM NIWAS VS. FINANCIAL COMMISSIONER & ORS". is not applicable in present case and the factual matrix of these cases is completely different from the present case.
2. That as per schedule 1 of section 185 of DLR Act, there is no limitation period for filing the case under section 11 of DLR Act.



3. That Mangtu case refers to the challenge of bhoomidhari by a co-owner and thus it was held by the high court that a co-owner cannot challenge the entries in revenue record after 40 years of enjoying the same.
4. The case of "Ram Niwas" is related to the dispute of shares between the parties.
5. In the present case the fore fathers of the appellant was actual owner of the suit land as record since before the Independence and it is only after the enactment of DLR Act , on account of presence of well on suit land , the land was considered as Gaon sabha vested without verifying actual revenue record of the land on which well was situated .
6. The appellant relied upon the Judgment of Hatti Versus Sunder Singh. Reported as AIR 1971 SC 2320.


OBSERVATION:

That, on perusal of the aforesaid facts and records and hearing the arguments of both the parties, it is observed that the suit land was initially owned by the forefathers of the appellants as per the revenue records. And after the enactment of Delhi land Reform Act, the said land was vested in Gram Sabha on account of being construction of private WELL on the suit land. That, it is observed that there is long delay of more than 60 years in filing the present suit, without giving any proper justification for such delay.

CONCLUSION:

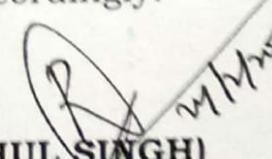
In the view of the above facts and observations, the undersigned dismissed the present appeal on account of being non maintainable due to delay in filing the suit under section 11 in the lower court.

Pronounced in the open court today on date 24.02.2020 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)