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

+ **W.P.(C) 1197/2024**

SH. RISHI PAL & ORS

..... Petitioner

Through: Mr. V.P. Rana, Advocate

versus

GOVT OF NCT OF DELHI & ORS

..... Respondent

Through: Mr. Rajeev Aggarwal, ASC for R-1 to
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CORAM:

HON'BLE MR. JUSTICE TUSHAR RAO GEDELA

ORDER

28.02.2024

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(The proceeding has been conducted through Hybrid Mode)

1. This is a writ petition under Article 226 of the Constitution of India, 1950 *inter alia* seeking the following reliefs:-

“a. Pass a writ of certiorari and any other writ or direction thereby quashing and setting aside the order dated 10.04.2019 passed by the Revenue Assistant in Case No.7664/370/RA/MEH/2014 titled as “Gaon Sabha Aya Nagar Vs. Dharampal & Ors. in respect of land comprising in Khasra Nos. 14 Min (0-10), 34 Min (0-10), 38 Min (0- 10), 43 Min (0-10) 44 Min (1-0), 49 (1-0) situated in the revenue estate of village Aya Nagar, New Delhi, in the interest of justice.

b. pass any other or further writ, order, direction which this Hon'ble court may in view of the facts and circumstances of the present case and in the interest of justice deems fit and proper;”

2. Mr. V.P. Rana, learned counsel appearing for the petitioners submits

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that by virtue of order dated 10.04.2019, the Revenue Assistant, without issuing any formal notice, as envisaged under Rules 21 (A) and (B) of Delhi Land Reform Rules has passed the orders vesting the land of the petitioner comprising in Khasra Nos. 14 Min (0-10), 34 Min (0-10), 38 Min (0- 10), 43 Min (0-10) 44 Min (1-0), 49 (1-0) situated in the revenue estate of village Aya Nagar, New Delhi, in the Goan Sabha. The contention of Mr. Rana is that the petitioner was never given an opportunity of hearing since no notice was ever served upon the petitioner.

3. He submits that thereafter on 20.11.2019, a notification was issued by the concerned Government under Section 507(a) of DMC Act, 1957 urbanising the area falling within the revenue estate of Village Aya Nagar. He submits that the petitioner had by virtue of the provisions of DLR Act, filed an application before the Revenue Assistant seeking setting aside of the said order. However, by order dated 17.03.2021, the Revenue Assistant had refused to entertain the said application on the ground that the notification having been issued, the provisions of DLR Act are inapplicable.

4. On an appeal thereto before the Deputy Commissioner, the Deputy Commissioner had by way of an order directed the petitioners that the petitioners should undertake appropriate proceedings before the appropriate authority on the ground that the order passed by the Revenue Assistant was not an appealable order.

5. Subsequently, the petitioner has filed revision petition before the Financial Commissioner by which time the judgment of the Supreme Court in ***Mohinder Singh (Dead) Through LRs and Another vs. Narain Singh and Others*** reported in **2023 SCC OnLine SC 261** had been rendered holding that wherever the notification of Section 507(a) of DMC Act is



issued, the pending proceedings under the DLR would become *non est* in law, inasmuch the entire provisions of 1954 Act would be inapplicable to such areas.

6. Learned counsel submits that the present petition has been preferred as a consequence of the order passed by the Financial Commissioner.

7. Issue notice.

8. Notice accepted by Mr. Rajeev Aggarwal, learned ASC, GNCT of Delhi, who seeks and is granted two weeks' time to file counter affidavit/reply.

9. Learned ASC vehemently objected to the maintainability of the present petition on the ground that by virtue of the orders passed by Coordinate Bench of this Court, the disputes, similar to the present one, were directed to be raised before the competent Court of Civil Jurisdiction and not the Writ Court, since it would involve disputed questions of fact.

10. Counter affidavit be filed raising the issue of maintainability too.

11. On taking steps by the petitioners within a week, notice be issued to respondent no.4/DDA by all permissible modes. Additionally through learned Standing Counsel for DDA.

12. The affidavit of service be filed two weeks before the next date of hearing.

13. List on 07.08.2024.

TUSHAR RAO GEDELA, J

FEBRUARY 28, 2024

At

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