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

+ **W.P.(C) 1402/2024**

DAYA CHAND THROUGH LRS Petitioner

Through: Mr. Parvinder Chauhan and
Ms. Aakriti Garg, Advocates

versus

GAON SABHA BANKNER Respondent

Through:

CORAM:
HON'BLE MR. JUSTICE TUSHAR RAO GEDELA

ORDER

% **31.01.2024**

(The proceeding has been conducted through Hybrid Mode)

CM APPL. 5762/2024

1. Exemption allowed subject to all just exceptions.
2. The application stands disposed of.

W.P.(C) 1402/2024

3. This is writ petition under Article 226 of the Constitution of India *inter alia* seeking following prayers:-

“A. Issue a writ, order and/or direction in the nature of certiorari thereby calling forth the records of the Impugned Case being Appeal No. 731/DM/N/2020-823-25 titled as Gaon Sabha Bankner & Anr. Vs Daya Chand pending before the court of Deputy Commissioner (North Delhi);

B. After perusal of the records so called forth to itself,



quash the proceedings in the impugned case and orders passed therein being without jurisdiction;

C. Issue a writ, order and/or direction in the nature of prohibition thereby restraining the Respondent from interfering in peaceful possession, use and occupation of the Petitioners in respect of Subject Land measuring Khasra No. 43/06 (4-16) total measuring 4 Bighas & 16 Biswas bearing Khasra No. 43/06 (4-16) situated in Village Bankner, District North Delhi;

D. Award throughout costs in favour of the Petitioner;...”

4. Mr. Parvinder Chauhan, learned counsel appearing for the petitioners submits that the notification in respect of Village Bankner, urbanising the village under Section 507(A) of the Delhi Municipal Corporation Act, 1957 (hereinafter as “DMC Act, 1957”) was issued on 20.11.2019. He submits that the appeal before the Deputy Commissioner/DM (North) was filed subsequent thereto.

5. He submits that 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** has categorically down that once the notification under Section 507(A) of DMC ACT, 1957 urbanising a particular area is issued, the provisions of the Delhi Land Reforms Act, 1954 shall become inapplicable and any proceedings emanating therefrom shall be *non est*.

6. Mr. Chauhan submits that keeping in view the aforesaid, the filing as also the pending Appeal No. 731/DM/N/2020/823-25 titled ***Gaon Sabha Bankner and Another vs. Daya Chand***, before the Deputy Commissioner (North), Delhi shall be rendered nugatory.



7. Issue notice.
8. Upon petitioners taking steps within a week, notice be served upon the respondents by all permissible modes.
9. Counter affidavit, if any, be filed within four weeks from the date of service with an advance copy to learned counsel for the petitioners. Rejoinder, thereto if any, be filed within four weeks, thereafter, with an advance copy to learned counsel for the respondents.
10. List before the Registrar for completion of pleadings and service on 29.04.2024.
11. Though there is no application seeking stay of the proceedings filed by the petitioner, however, keeping in view the ratio laid down by the Supreme Court in ***Mohinder Singh*** (supra), the logical consequence would be that the proceedings even otherwise be *non est* in law. As such, the proceedings in the Appeal No. 731/DM/N/2020/823-25 titled ***Gaon Sabha Bankner and Another vs. Daya Chand*** are kept in abeyance till the next date of hearing.

TUSHAR RAO GEDELA, J

JANUARY 31, 2024

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