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

\+ W.P.(C) 2670/2024

SH DINESH MITTAL ..... Petitioner

Through: Mr. Nitin, Advocate

versus

GOVT OF NCT OF DELHI AND ANR ..... Respondents

Through: Mr. Prashant Manchanda, ASC with Ms. Nancy Shah and Ms. Haridas Medha, Advocate

CORAM:
HON'BLE MR. JUSTICE TUSHAR RAO GEDELA

O R D E R

% **22.02.2024**

(The proceeding has been conducted through Hybrid Mode)

CM APPL. 10912/2024 (Exemption)

1. Exemption allowed, subject to all just exceptions.

2. Application stands disposed of.

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3. This is a petition under Article 226 of the Constitution of India seeking setting aside of the exprate order dated 27.07.2012 passed by the Revenue Assistant in respect of the land of the petitioner comprising khasra numbers No 253 (3-6), 255min (13-3), 256MIN (0-16), 262 (8-3), 263 (3-7), 264 (17-18), situated in the Revenue Estate of village Ladha Sarai, New Delhi whereby the notice dated 09.09.2023 was issued by the Revenue Assistant to the father of the petitioner on the ground that the said khasra numbers has been used for non-agricultural purpose in contravention of Chapter III-D of the

Delhi Land Reforms Act, 1954 and to show cause to as why action under Section 81 of the Delhi Land Reforms Act, 1954 be not initiated against the father of the petitioner.

4. Learned counsel appearing for the petitioner submits that consequent upon the said notice, late father of the petitioner had filed the reply thereto on 25.09.2003 as also additional reply dated 05.02.2004, particularly extracting the notification dated 23.05.1963 issued by the Delhi Administration (Municipal Corporation of Delhi) issued in exercise of power conferred by clause (a) of Section 507 of the Delhi Municipal Corporation Act, 1957 declaring the village Ladha Sarai as an urbanized area. The aforesaid reference was mentioned so as to apprise the Revenue Assistant that the land is not an agricultural land under the DLR Act and as such the revenue assistant could not have exercised jurisdiction over it.

5. Learned counsel submits despite the aforesaid, the Revenue Assistant went ahead and had passed the order dated 06.07.2012/27.07.2012. Learned counsel submits that keeping in view the ratio of the judgment of the Supreme Court in ***Mohinder Singh Through LRs vs. Narain Singh*** reported in **2023 SCC OnLine SC 261,** the initiation of proceedings itself is *non est* in law.

6. The petitioner had also filed an application seeking restoration of appeal which was filed by Mr. Dinesh Kumar Mittal s/o Mr. Madan Lal Mittal captioned as Mr. Dinesh Kumar Mittal Vs. Gaon Sabha Ladha Sarai which is stated to be still pending.

7. Issue notice.

8. Notice is accepted by learned counsel appearing for the respondent nos. 1 to 3.

9. Counter affidavit, if any, be filed within four weeks with an advance copy to learned counsel for the petitioner. Rejoinder, thereto if any, be filed within two weeks, thereafter, with an advance copy to learned counsel for the respondent.

10. List on 20.05.2024.

11. In the meanwhile, no coercive action may be taken by the Revenue Authority against the petitioner against the khasra numbers mentioned above belongs to the petitioner till the next date of hearing.

TUSHAR RAO GEDELA, J

FEBRUARY 22, 2024/*ms*