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

+ **W.P.(C) 5195/2022**

AASAKTI ESTATES PVT LTD Petitioner

Through: Mr. Sumit Bansal and
Mr. Udaibir Singh, Advocates.

versus

GOVT OF NCT OF DELHI & ANR. Respondents

Through: Mr. Siddharth Panda and
Mr. Ritank Kumar, Advocates
for R-1 (Ph.9891488088, e-
mail: siddhupanda@gmail.com)

CORAM:

HON'BLE MS. JUSTICE MINI PUSHKARNA

ORDER

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14.12.2022

[Physical Hearing/ Hybrid Hearing]

1. The present petition has been filed with a prayer for declaration thereby declaring the action of the respondents in not correcting the records with respect to the land forming part of Khasra Nos. 317 (3-18), 318 (4-16), 319 (4-4) in all admeasuring 12 bigha 8 biswas situated in the Revenue Estate Village Satbari, Tehsil Delhi, as illegal and arbitrary.
2. It is the case on behalf of the petitioner that vide judgment dated 06.04.2015 passed by Division Bench of this Court in W.P.(C) 6617/2014, a declaration has been given in favour of the petitioner herein, wherein it has been declared that the acquisition proceedings initiated under the 1894 Act in respect of the land of the petitioner are



deemed to have been lapsed. The said judgment dated 06.04.2015 was carried in appeal before the Hon'ble Supreme Court by the respondent in Civil Appeal No. 6283/2017 and Civil Appeal No. 6162/2017 . The same came to be dismissed by the Hon'ble Supreme Court by judgment dated 04.05.2017. Against the said judgment dated 04.05.2017, the respondents preferred a review petition being Review Petition (Civil) Diary No. 32541/2021. However, the said Review petitions on behalf of the respondents also came to be dismissed by Hon'ble Supreme Court by order dated 03.03.2022. Thus, learned counsel for the petitioner submits that the present petition may be allowed as the acquisition of land of the petitioners has already been declared to have been lapsed.

3. He relies upon judgment dated 09.12.2021 passed by co-ordinate Bench of this Court in W.P.(C) No. 12848/2021 to contend that in similar circumstances, relief has been granted by the Court, thereby directing the respondents to make necessary correction in the Revenue Record.

4. On the other hand, learned counsel for the respondents submits that judgment dated 13.07.2015 passed by Division Bench of this Court in W.P.(C) No. 6617/2014 was passed on the basis of judgment in the cases of ***Pune Municipal Corporation and Anr. v. Harakchand Misirimal Solanki and Ors., (2014) 3 SCC 183*** and ***Shree Balaji Nagar Residential Association v. State of Tamil Nadu and Ors., (2015) 3 SCC 353***. They contend that subsequently, the Hon'ble Supreme Court in the case of ***Indore Development Authority vs. Manoharlal and Ors. reported in (2020) 8 SCC 129***, in Para 365 of



the said judgment, has categorically held that decision rendered in ***Pune Municipal Corporation*** (supra) is overruled. Hon'ble Supreme Court has further held that all other decisions in which ***Pune Municipal Corporation*** (supra) has been followed are also overruled. Hon'ble Supreme Court in the case of ***Indore Development Authority*** (supra) has further held that the decision in the case of the ***Shree Balaji Nagar Residential Association*** (supra) also cannot be said to be laying down good law. Thus, even the decision in the case of ***Shree Balaji Nagar Residential Association*** (supra) was overruled by the Hon'ble Supreme Court. It has further been held by Hon'ble Supreme Court in the case of ***Indore Development Authority*** (supra) that all the other decisions which have been rendered by following the judgment in the case of ***Shree Balaji Nagar Residential Association*** (supra) are also overruled.

5. Learned counsel for the respondents has further relied upon order dated 21.07.2022 passed by Hon'ble Supreme Court in S.L.P. (Civil) Diary No. 17623/2021, ***Govt. of NCT of Delhi & Anr. Vs M/s BSK Realtors LLP & Anr.*** wherein it has been held as follows:

“It is urged that the effect of such overruling is to efface all the orders, including passed by this Court relying on Pune Municipal Corporation (Supra).

It is further urged that such overruling had rendered those decisions nullity and cannot be given effect to in particular the direction to restore possession of the acquired land to the original landowners.

We need not dilate on other contentions raised before us.

Suffice it to observe that these matters require



deeper examination, for which the same need to be placed before the three Judge Bench for hearing on 17.08.2022.

It will be open to the parties to get other connected matters involving aforesaid issue by pointing out this order to the Registry, which request may be considered by the Registrar (Judl.) for tagging of those cases along with these matters.

In the meantime, the parties are at liberty to file affidavits/additional documents.”

6. In view of the aforesaid, it is submitted that the issue with respect to the cases, where it has been held that all the cases based on the judgment of Hon'ble Supreme Court in the case of **Pune Municipal Corporation** (supra) and **Shree Balaji Nagar Residential Association** (supra) stand overruled, is pending before Hon'ble Supreme Court for consideration. Thus, they submit that no relief can be granted to the petitioner in the present case.

7. In view of the aforesaid, to await the judgment of Hon'ble Supreme Court in the case of **Government of NCT of Delhi and Anr. v. M/s BSK Realtors LLP and Anr., SLP (Civil) Diary No. 17623/2021**, list on 30.03.2023.

MINI PUSHKARNA, J

DECEMBER 14, 2022

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