(2017) 11 DEL CK 0248

In the Delhi High Court

Case No : Letter Patent Appeal No. 622 Of 2016

Deputy Commissioner (West) & Anr APPELLANT

Vs

Kuldeep Singh & Anr RESPONDENT

Date of Decision : 22-11-2017

Acts Referred:

Citation : (2017) 11 DEL CK 0248

Hon'ble Judges : S. Ravindra Bhat, J;Sanjeev Sachdeva, J

Bench : Division Bench

Advocate : J.M.Kalia, J.P.Sengh, Raghu Verma, Udita Sharma, Manisha Mehta, Vaishali Tanwar, Mrigna Shekhar

Final Decision : Dismissed

Judgement

S. Ravindra Bhat, J

LPA 622/2016& CM Nos.41497/2016(stay), 41496/2016(delay in filing petition for 129 days)

1. The appellants have preferred an appeal against the order of the learned Single Judge who directed the Revenue Secretary, the Government of

NCT of Delhi, to decide the request of the writ petitioners within four weeks.

2. The brief facts are that the village Mundka was notified for consolidation in 1972. On 24.03.1992, the lands in the village were vested in the Gaon

Sabha. In the meanwhile, apparently, one Asha Sabharwal, who claimed to have purchased the subject land from its owner, approached the Financial

Commissioner against an order of 23.07.1993. By that order, oneSurat Singh had been allotted two holding; including 1 bigha four biswas in the

consolidation proceeding (later being subject-matter of the present proceeding). The consolidation was declared closed and the proceedings attained finality on 25.06.1998, by the order of the concerned Officer, i.e., the Sub-Divisional Magistrate(SDM).

3. The Financial Commissioner, on 22.06.2010, allowed the Revision preferred by Asha Sabharwal and set aside the order dated 24.03.1992. This

meant that the allotment made during the intervening period, i.e. on 23.07.1993, in effect stood nullified.

4. The allottee - Surat Singh had, in the meanwhile, sold the property to the writ petitioners on 20.01.2010 through a registered sale deed. The

transaction was also reflected in the revenue record by an entry on 04.03.2010. This aspect is crucial, as on the date when the Financial

Commissioner made the order in favour of the third party â?" Asha Sabharwal, third party rights had accrued in favour of the writ petitioners. In these

circumstances, the writ petitioners again approached the concerned authorities for relief.

5. On 29.03.2011, the writ petitioners sought liberty to withdraw the proceeding before the Financial Commissioner. The circumstances, in which the

proceedings were withdrawn before the Financial Commissioner, are interesting. A contempt proceeding was filed before the Financial Commissioner

on behalf of the writ petitioners. In that proceeding, the Revenue Authorities had filed a status report and sought time to implement the order, whereby

the land could be made available to the writ petitioners. In the meanwhile, they sought for enforcement. In the proceeding, an assurance was held out

that another plot would be given. Later, an affidavit was filed in the following terms:-

â??6.It is stated as there is no land available in Village Mundka. It is stated however that the exercise of identifying a vacant piece of land

measuring 01-04 bigha in Villages other than Village Mundka in the revenue estate of Sub-Division Punjabi Bagh, was undertaken and it

was informed by the BDO (West) vide letter dated 05.04.2016 that land is available in Village Bakkarwala, Delhi. True copy of the letter

dated 05.04.2016 of the BDO(West) is annexed herewith as Annexure R-1.

7. It is stated that permission of the Secretary, Department of Revenue has to be sought as to whether the land can be allotted in Village

Bakkarwala as the case of allotment of land relates to the period during the consolidation of Village Mundka.â??

6. Having regard to the above circumstances, the learned Single Judge, on the basis of the following reasoning, disposed of the writ petition :-

â??...........The grievance of the petitioner is that aforesaid order has not yet been complied with and the land has not been allotted till

date.

Learned counsel for the respondents submits that no land is available in village Mundka. It is further submitted that the exercise of

identifying a vacant piece of land measuring 1 bigha 4 biswas in villages other than village Mundka in the revenue estate of Sub Division

Punjabi Bagh was done and the Block Development Officer(West) vide letter dated 05.04.2016 informed that land is available in Village

Bakkarwala, Delhi. Accordingly, file has been processed further and permission of the Secretary, Department of Revenue has been sought

as to whether the land can be allotted in Village Bakkarwala as the case of allotment of land relates to the period during the consolidation

of village Mundka.

In the above facts, it is directed that the order of the Financial Commissioner dated 22.06.2010 be complied with and land admeasuring

1bigha 4 biswas be allotted to the petitioner, if not available in village Mundka then in village Bakkarwala, Delhi, which land the petitioner

is ready to accept. This writ petition is disposed of with directions to the Secretary, Revenue Department to decide thisrequest of the

respondent No.1within four weeks. Thereafter, order of the Financial Commissioner be complied within a period of two months.â??

7. It is contended by the appellants that the order is unimplementable because in the absence of any surplus land in the village, allotment is not possible

to the writ petitioners. It was submitted that once the vesting order of 1992 itself was set aside, the rights, which accrued to Surat Singh, could not

have been relied upon by the writ petitioners.

8. Besides contending that the third party Asha Sabharwal would be adversely affected and that the impugned order; itreally results in a direction to

allot fresh land when none is available and that it has wide ramification.

9. The Court is of the opinion that since the impugned order of the Financial Commissioner which, in fact, noticed the compromise between the parties,

was never interfered or called in question at a stage when the writ petitioners sought its implementation, the appellants could not have re-siled and

taken a different position. That, indeed such a representation was held out, is evident from the affidavit filed in the course of the writ proceedings â?

apparent from the extracts at paras 6 & 7, reproduced above.

10. In view of the foregoing discussion, no intervention to the impugned order is called for.

The Appeal is dismissed.

