

Sanraj Farms Private Limited vs Shri Charan Singh & Another on 24 August, 2022

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IN THE HIGH COURT OF DELHI AT NEW DELHI

CS(OS) 165/2018

I.A. 13274/2022

I.A. 13275/2022

SANRAJ FARMS PRIVATE LIMITED Plaintiff

Through: Mr. Rajesh Yadav, Sr. Advocate with
Ms. Ruchira V. Arora, Mr. Dhananjay
Mehlawat and Mr. Rahul Choudhary,
Advocates (Ph. 9911006159, e-mail:
dhananjay_mehlawat@yahoo.co.in).

versus

SHRI CHARAN SINGH & ANOTHER Defendants

Through: Advocate (appearance not given).

CORAM:

HON'BLE MS. JUSTICE MINI PUSHKARNA
ORDER

% 24.08.2022

1. It has been brought to the notice of this Court that in the order dated 04.08.2022, in Paragraph 14, instead of Para 5.2 of the notification, Para 5.3 of the notification dated 14.07.2018 needs to be inserted, since the Para 5.3 pertains to the area in question falling in residential area.

2. In view of the aforesaid averment, the order dated 04.08.2022, including the corrections in Para 14, will read as follows:

1. This is an application on behalf of the plaintiff for direction to the SDM, Vasant Vihar, New Delhi to submit correct valuation of the suit property for drawing a final decree for partition.

2. The present suit had been filed by the plaintiff for declaration, partition and permanent injunction against the defendants. The suit was filed in respect of land bearing Khasra Nos.942 (4-16), 943 (4-16), 944 (4-16), 946 min (4-9), 947 (4-

16) and 945 min. (4-9), totally measuring 28 bighas and 02 biswas, situated in the Revenue Estate of Village Rajokari, Tehsil Vasant Vihar, New Delhi.

3. The suit of the plaintiff was decreed by this Court vide Judgment dated 10.10.2019. A final decree for partition of the suit land measuring 28 bighas and 2 biswas situated in the Revenue Estate of Village Rajokari, Tehsil Vasant Vihar, New Delhi, by metes and bounds, was passed. Subsequently, a

final decree was directed to be drawn. It was further directed by this Court vide Judgment dated 10.10.2019 that the stamp duty on the final decree for partition is to be borne by the parties in the ratio of the share of each of the parties i.e. three-fourth share of the plaintiff and one-eighth share of the two defendants.

4. It is, thus, submitted by learned counsel for the plaintiff that final decree is required to be prepared by paying non-judicial stamp duty as per Article 45 of the Stamp Act, 1899 read with Section 2 (15). Thus, for the purposes of drawing of a final decree, valuation of the suit land was required to be submitted by the SDM, Vasant Vihar, New Delhi. It is submitted on behalf of the plaintiff that SDM, Vasant Vihar was directed to submit the valuation report of the suit property vide order dated 11.02.2021 passed by this Court. Subsequent directions in this regard were also passed by this Court. A Valuation Report came to be filed on behalf of the SDM, Vasant Vihar, New Delhi, wherein the suit land has been shown to be agricultural and calculation of the stamp duty has been done on the basis of circle rate of agricultural land.

5. It is contended on behalf of the plaintiff that the land in question has ceased to be governed by the Delhi Land Reforms Act, 1954, since the land ceased to be an agricultural land. Therefore, the Valuation Report as submitted by the SDM, Vasant Vihar treating the land as agricultural land was not correct and proper.

6. Subsequently, a second Valuation Report was filed on behalf of the SDM, Vasant Vihar, where again the land in question was shown as agricultural land and calculation towards the stamp duty was done on the basis of circle rates for agricultural land.

7. Thus, the present application has come to be filed on behalf of the plaintiff wherein prayer has been made for direction to the SDM, Vasant Vihar to submit correct valuation of the suit land, by showing the suit land as residential in nature and situated in an urban area.

8. During the course of the arguments, attention of this Court was drawn to the judgment dated 10.10.2019 passed by this Court.

9. Issues were framed by this Court on 28.11.2018. Issue No. (I) which came to be framed by this Court, reads as follows:

„(I) Whether with the issuance of Notification dated 18th June, 2013 issued by the Ministry of Urban Development (Delhi Division) in exercise of powers under Section 11(a)(2) of the Delhi Development Act, 1957, the land subject matter of the suit has ceased to be governed by the Delhi Land Reforms Act, 1954? OPP

10. The aforesaid issue was categorical with respect to the fact whether the subject land has ceased to be governed by the Delhi Land Reforms Act, 1954 and the onus of proof was put on the plaintiff. At the time of passing the final judgment dated 10.10.2019, this Court gave the finding in favour of the petitioner, wherein it was categorically held that the land was no longer governed by the Delhi Land Reforms Act. Reference may be made to the following paragraphs:

"15. In Shri Neelpadmaya Consumer Products Pvt. Ltd. supra, one of the issues for adjudication in the suit was whether the suit land was governed by the provisions of Delhi Land Reforms Act and the agreement between the parties was in violation of the provisions of the said Act. Following the judgments aforesaid, it was held (i) that a notification for urbanization need not only be through a notification under Section 507 of the Delhi Municipal Corporation Act as the later part of Section 3(13) of the Land Reforms Act does not in any way require that there is only one manner of notification viz only under Section 507 of the Delhi Municipal Corporation Act; (ii) Section 3(13) of the Land Reforms Act only requires that a notification is issued in an Official Gazette to make the land as part of the Delhi town and New Delhi town; once a notification is issued applying a zonal plan issued pursuant to the Master Plan showing that subject lands are covered under the zonal plan issued by the DDA, in such a situation it has to be held that the lands cease to be the lands covered under the Land Reforms Act because the issuance of a notification in the Official Gazette results in the lands becoming part of Delhi town; and, (iii) that as per Sections 1, 3(5) and 3(15) of the Delhi Land Reforms Act, once an area falls within a town area and an area ceases to be an agricultural land because it has to be developed as part of the development of the Delhi town or New Delhi town, then such an area no longer remains an agricultural area for being covered under the expression „land as defined in Section 3 (13) of the Land Reforms Act."

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"23. In view of the aforesaid judgments which are binding on me, it has but to be held that on the issuance of notification dated 18th June, 2013, the land subject matter of the suit, insofar as for the purposes of maintainability of the proceedings before the Courts under the Delhi Land Reforms Act, has ceased to be governed by the Delhi Land Reforms Act and Issue No.I is accordingly decided in favour of the plaintiff and against the defendants."

11. Pursuant to the passing of this judgment, there were clear directions by this Court that stamp duty on the final decree for partition is to be borne by the parties in the ratio of the plaintiff's three fourth share and each of the two defendants, one eighth share.

12. Attention of this Court has also been drawn to the Notification dated 18.06.2013 issued by the Ministry of Urban Development (Delhi Division), which has been reproduced in Paragraph 9 of the judgment dated 10.10.2019. In the said notification, a reference has been made to Para 4.2.2.1 (D) Low Density Residential Area. The said para has been extracted from the Master Plan for Delhi, 2021, wherein it is stated as follows:

"MINISTRY OF URBAN DEVELOPMENT (DELHI DIVISION) NOTIFICATION New Delhi, the 18th June, 2013

....

4.2.2.1(D) LOW DENSITY RESIDENTIAL AREA The majority of Farm Houses in the urban extension areas are located on lands where ground water has already been severely depleted or close to such depletion. Further, intensification of residential density and heavy additional load on civic infrastructure such as water supply, Drainage, Sewerage, Parking, etc. is highly undesirable in such areas from environmental considerations. Therefore, Villages containing existing farm houses clusters are notified as "Low Density Residential Area" (list of village at Annexure-I). Low Density Residential Plots are also allowed in the village falling in Green belt (List of villages in Green Belt at Annexure-II)."

"10. In the list of villages declared as „low density residential area in urban extension, appended to the Notification aforesaid, mention of Rajokri is found at serial no.14."

13. A perusal of the aforesaid clearly shows that this Court while passing the judgment 10.10.2019 has given categorical finding that the area of Rajokari is now shown as Low Density Residential Area in urban extension.

14. Further, a Notification dated 04.07.2018 has been issued by the Delhi Development Authority in exercise of its power conferred under Section 57 (1) of the Delhi Development Act, 1957, wherein the "Regulations for Enabling the Planned Development of Privately Owned Lands" has been notified by the DDA. Para 5 of the said Notification dated 04.07.2018 issued by the DDA pertains to Development Control Norms and Para 5.3 of the said notification stipulates as follows:

"5.3 The land parcels falling under "Residential"

land use, within Low Density Residential Area (LORA) shall be governed as per the provisions given under Para 4.4.3 (G) Low density Residential Plot of Chapter 4 in MPD-2021."

15. A perusal of the aforesaid Notification dated 04.07.2018 issued on behalf of the DDA categorically shows that the area in question situated in Rajokari, which is shown as Low Density Residential Area (LDRA), now falls under the residential land use.

16. Further, Notification dated 22.09.2014 issued by the Delhi Government pertaining to circle rates applicable to NCT of Delhi with effect from 23.09.2014, shows the area of Rajokari Village is listed at Serial No.1678 and is shown in the category „H . As per the said notification, the circle rate has been given in Table 1. Minimum rates for valuation of land for residential use for locality falling in category „H is Rs.23,280/- per sq. mtr.

17. Learned counsel for the plaintiff has also filed a tentative calculation of the stamp duty on the basis of the land in question falling in category „H and on the basis that the said land is residential in question.

18. On the other hand, learned counsel for the SDM, Vasant Vihar admits to the fact that the area in question had been urbanized. However, he submits that no separate notification pertaining to the circle rate had been issued for the said area. Therefore, because of the same, the SDM, Vasant Vihar has made calculation on the basis that the land was agricultural, though it is admitted that the land in question stands urbanized.

19. After hearing the arguments on behalf of the parties and perusing the documents on record, it is clear that the land in question already stands urbanized. The law in this regard is very clear that once the land has been urbanized, the Delhi Land Reforms Act ceases to apply to the said area. In view of the aforesaid, the calculation by the SDM, Vasant Vihar on the basis that the land in question is agricultural and applying the circle rates for agricultural land, cannot be accepted.

20. Perusal of the documents on record show that the land in question falls in „H category and the rate for calculation of stamp duty is Rs.23,280/- per sq. mtr., since the land use of the area is now residential as noted above.

21. In view of the aforesaid, SDM, Vasant Vihar may make the calculations taking the land as falling in „H category and the calculations be done accordingly, treating the land as residential in nature.

22. The SDM, Vasant Vihar is directed to verify the tentative calculation of stamp duty as filed on behalf of the plaintiff along with the present application. Let corrected calculation of stamp duty be filed by the SDM, Vasant Vihar within one week.

23. The application stands disposed of accordingly. CS(OS) 165/2018

24. List on 24.08.2022."

3. The order dated 04.08.2022 is modified to the aforesaid extent.

4. By order dated 04.08.2022, learned counsel appearing for the Delhi Government had been directed to file the corrected calculation of Stamp Duty by SDM, Vasant Vihar.

5. Learned counsel appearing for the Delhi Government submits that he has received the calculation sheet only today morning. Let the same be filed in the Registry.

6. A copy of the Valuation Report on behalf of the SDM, Vasant Vihar has been handed over to the learned counsel for the plaintiff. He submits that the said valuation, as submitted by SDM, Vasant Vihar, is correct.

7. In view of the aforesaid, let the plaintiff as well as the defendants deposit the Stamp Duty in the ratio of their respective shares i.e. 3/4th share of the plaintiff and 1/8th share each of the two defendants, in terms of the order dated 10.10.2019 passed by this Court.

8. Upon deposit of the requisite Stamp Duty by the parties, the Registry is directed to draw the decree accordingly.

9. The suit stands disposed of accordingly in the aforesaid terms.

10. Pending applications also stand disposed of accordingly.

MINI PUSHKARNA, J AUGUST 24, 2022 PB