

# Pawan Kumar Gupta vs Rural Medicare Society on 29 January, 2021

**Author: Rajiv Shakdher**

**Bench: Rajiv Shakdher**

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\* IN THE HIGH COURT OF DELHI AT NEW DELHI

+ RSA 12/2021 & CM Nos.3116-17/2021

PAWAN KUMAR GUPTA

Through : Mr. Ajay Kohli, Adv.

versus

RURAL MEDICARE SOCIETY

.....Respondent

Through : Mr. K.K. Rai, Sr. Adv. with Mr.  
Abhishek Kumar, Adv.

CORAM:

HON'BLE MR. JUSTICE RAJIV SHAKDHER

ORDER

% 29.01.2021 [Court hearing convened via video-conferencing on account of COVID-19]

1. Allowed, subject to just exceptions.

2. Mr. Ajay Kohli, who appears on behalf of the appellant, fairly states that the appeal is pivoted on one singular issue, which is, as to whether or not Saidulajab Village is an urban area, as per the provisions of the Delhi Municipal Corporation Act, 1957 (in short 'DMC Act') and as to whether a notification has been issued by the Central Government under Section 1(2) of the Delhi Rent Control Act, 1958 (in short 'DRC Act') qua the said village ?

RSA 12/2021 page 1 of 4

3. Mr. K.K. Rai, learned senior counsel, who appears on behalf of the respondent, says that the appellant has not been able to prove that the aforementioned village was declared an urban area on the date when the decree was passed by the trial court.

3.1 For this purpose, he has relied upon the extract of the cross-examination of the SDM, which is, found on page 127 of the paper book. This apart, Mr. Rai has screenshared the notification dated 20.11.2019, issued by the Department of Urban Development, Government of NCT of Delhi, in exercise of the powers under Section 507(a) of the DMC Act. 3.2 The aforementioned notification is

suggestive of the fact that from the date of its publication, amongst others, the aforementioned village ceased to be a rural area.

3.3 Mr. Rai's contention, thus, is that on the date when the decree was passed, the aforementioned village was a rural area and, therefore, the DRC Act had application to the instant action.

3.4 Furthermore, Mr. Rai says that, in any event, no separate notification has been issued under Section 1(2) of the DRC Act to bring the aforementioned village within its purview. In other words, what is required to be considered is: whether the notification declaring the Revenue Estate of Mehrauli, (in which the aforementioned village, purportedly falls) to be an urban area, would be sufficient to hold that the aforementioned village is an urban area as well?

3.5 In addition, thereto, what is also required to be considered is: whether the notification issued under Section 1(2) of the DRC Act qua the Revenue Estate of Mehrauli would also cover the aforementioned village.

RSA 12/2021 page 2 of 4

4. I must indicate that prima facie the argument of the appellant does not appear to be sustainable in view of the notification dated 20.11.2019, which has been issued by the Urban Development Department, Government of NCT of Delhi. This notification is suggestive of the fact that the earlier notification, which covered the Revenue Estate of Mehrauli, did not, necessarily, establish that the aforementioned village was also urbanised. However, since this appeal is in continuation of the suit action, the notification dated 20.11.2019 may have helped the appellant but for the fact that there is no separate notification issued under Section 1(2) of the DRC Act.

5. Therefore, for Mr. Kohli to rely upon the notification dated 25.03.1979, issued under Section 1(2) of the DRC Act, (see page 110 of the paper book) and contend that requirement of the said provision is met is an argument which appears to be, somewhat tenuous, to say the least, at this stage, as that notification, read with the notification dated 23.05.1963, issued under Section 507(a) of the DMC Act (see page 111 to 113) concerns the Revenue Estate of Mehrauli and does not, specifically, refer to the aforementioned village.

5.1 That being said, since Mr. Kohli wishes to address further arguments in the matter, list, the appeal on 10.02.2021.

6. Mr. Kohli states that in the meanwhile, the appellant will remit the arrears of rent/mesne profits, in terms of the impugned order, to the respondent, before the next date of hearing.

RSA 12/2021

6.1 To facilitate this process, Mr. Abhishek Kumar, who appears on behalf of the respondent, will communicate the bank details of the respondent to Mr. Kohli, via e-mail, within the course of the day.

7. In the meanwhile, Mr. Rai will place the notification dated 20.11.2019 on record supported by an affidavit. A copy of the same will be furnished to Mr. Kohli.

JANUARY 29, 2021  
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RAJIV SHAK

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RSA 12/2021