

# Shri Dharam Bir Sabharwall vs The Estate Officer Delhi Development ... on 9 November, 2022

**Author: Chandra Dhari Singh**

**Bench: Chandra Dhari Singh**

\$~39

\*

+

IN THE HIGH COURT OF DELHI AT NEW DELHI

W.P.(C) 2104/2020 & CM APPL. 47511/2022

SHRI DHARAM BIR SABHARWALL

..... Petitioner

Through: Mr. Ravinder Sethi, Sr. Advocate  
with Mr. Puneet Sharma, Advocate

versus

THE ESTATE OFFICER DELHI DEVELOPMENT AUTHORITY  
AND ANR.

..... Respondent

Through: Mr. Anish Dhingra and Mr. Naku  
Ahuja, Advocates

CORAM:

HON'BLE MR. JUSTICE CHANDRA DHARI SINGH

ORDER

% 09.11.2022 Exemption allowed subject to just exceptions.

The application stands disposed of.

1. The instant review petition/application under Order 47 read with Section 114 of the Code of Civil Procedure, 1908 has been filed on behalf of the petitioner seeking the following reliefs:

"A. Grant review of the judgment, and order dt. 22.08.2022 and allow the writ petition preferred by the petitioner; and B. Pass such other and further orders or directions as this Hon'ble Court may deem fit and proper in the facts and circumstances of the case."

2. Mr. Ravinder Sethi, learned senior counsel appearing on behalf of the review petitioner submitted that this Court while passing the judgment and order dated 22nd August, 2022 overlooked that the eviction order which violates the principle of natural justice as the officer who conducted an inquiry to determine how many plot holders were subsequent transferees himself sat as a judge and passed an eviction order. It is further submitted that the officer who conducted the inquiry could not have been appointed as the estate officer to adjudicate the dispute.

3. It is further submitted that the learned District Judge has lost sight of the facts that the petitioner is situated identically to the other 700 plot holders and in all cases, the plots are being used for

residential-cum- commercial. These facts have also been mentioned in the letter dated 27th February, 2015 written by Estate Officer who has passed the eviction order. It is submitted that letter dated 27th February, 2015 read with office memorandum dated 27th May, 1994 and conversion scheme of the Ministry of Urban Development dated 14th February, 1992, the petitioner has every right to hold the property on a freehold charges basis. At the most, the directions could be given to deposit the freehold charges. It is also submitted that reasons and conclusions given in the judgment and order dated 22nd August, 2022 are vitiated because of misleading of the materials on record. Findings which have been arrived at are directly contrary to the indisputable facts placed on record.

4. In view of the above facts and circumstances, learned senior counsel appearing on behalf of the review petitioner prays that the judgment and order dated 22nd August, 2022 may be reviewed by this Court.

5. Per contra, learned counsel appearing on behalf of the respondents vehemently opposed the submissions made by learned senior counsel for the review petitioner and submitted that this Court while passing the judgment and order dated 22nd August, 2022 has considered the entirety of the matter and documents available on record. The grounds, which have been made in the instant review petition for reviewing the instant judgment and order, are without any merit and beyond force. There is no error apparent on record in the judgment and order dated 22nd August, 2022. Therefore, the review petition is devoid of any merit and is liable to be rejected.

6. At this juncture, learned senior counsel for the review petitioner submitted, on instructions, that he is not pressing the instant review petition on merit and seeks an innocuous prayer to direct the respondent authorities to consider his case as per the Scheme i.e. No. J20011/12/77-LII, Ministry of Urban Development (Land Division), Government of India (Annexure P- 4 to the instant petition) and Circulars which are appended as Annexures P- 13 and P-14 to the instant petition and pass an appropriate order in accordance with law.

7. Heard learned counsel for the parties and perused the record.

8. Since the learned senior counsel for the review petitioner has not pressed the review petition on merit and made an innocuous prayer to consider his case in view of the aforesaid Scheme and Circulars, this Court is inclined to allow the innocuous prayer made on behalf of the review petitioner.

9. The review petitioner is directed to file a detailed representation/application along with the copy of the review petition as well as the certified copy of this order before the Commissioner, Land Management, Delhi Development Authority within four weeks from today.

After receiving the detailed representation/application, the Commissioner, Land Management, Delhi Development Authority is directed to adjudicate the issue as to whether the Scheme and the Circulars, which have been relied upon by the review petitioner, are applicable in his case. If the said Scheme and Circulars are found to be applicable in the case of the petitioner, the Commissioner,

Land Management, Delhi Development Authority is directed to dispose of the detailed representation/application after hearing the petitioner and pass a detailed and reasoned order in accordance with law expeditiously, preferably within eight weeks.

10. With the aforesaid directions, the review petition is disposed of along with pending applications, if any.

CHANDRA DHARI SINGH, J NOVEMBER 9, 2022 gs/ms