

# Vijay Gupta vs Govt Of Nct Of Delhi And Ors on 14 September, 2022

**Author: Chandra Dhari Singh**

**Bench: Chandra Dhari Singh**

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IN THE HIGH COURT OF DELHI AT NEW DELHI  
W.P.(C) 13023/2022 & CM APPL. 39427/2022  
VIJAY GUPTA

Through: Ms. Smita Maan, Adv

versus

GOVT OF NCT OF DELHI AND ORS.

Through: Mr. Anupam Srivasta  
GNCTD with  
Shrinrain, Advocate

CORAM:

HON'BLE MR. JUSTICE CHANDRA DHARI SINGH  
ORDER

% 14.09.2022 Exemption allowed subject to just exceptions.

The application stands disposed of.

W.P.(C) 13023/2022

1. The instant petition under Article 226 of the Constitution of India has been filed on behalf of the petitioner seeking the following reliefs:

"(i) Issue a writ, order or direction in the nature of prohibition thereby restraining the Respondent no. 2 from proceeding further in the proceedings pending before it U/s 81 of the Delhi Land Reforms Act, 1954, bearing Case No. 172/RA/SAKET/2017, titled as 'Gaon Sabha, Satbari Vs. Vijay Gupta' in respect of petitioner's land comprised in Khasra No. 255/2min (0-13) and 256min (3-10), situated in Village Satbari, New Delhi;

(ii) issue a writ, order or direction in the nature of certiorari thereby quashing/setting aside the above proceedings for being null, non-est and void ab- initio for patent lack of jurisdiction.

(iii) Pass such other further order(s) which this Hon'ble Court may deem fit and proper in the facts and circumstances of the present case."

2. It is submitted on behalf of the petitioner that the above proceedings are totally illegal, unlawful, null, void and non-est in law for the complete patent lack of jurisdiction of the respondent no. 2. It is submitted that the entire Village Satbari, wherein the above mentioned land in question is situated, was already urbanized by way of issuance of a notification dated 20th November 2019 under Section 507A of the Delhi Municipal Corporation Act, 1957 (hereinafter "DMC Act"), consequent where to the land in question ceased to be an agricultural land governed or covered under the provisions of the Delhi Land Reforms Act, 1954 (hereinafter "DLR Act"). Post the issuance of said notification under Section 507A of DMC Act, the provisions of the DLR Act were/are no longer applicable to the land in question in any manner and the authorities created under the said Act also does not have any jurisdiction in relation to the land in question.

3. To strengthen his arguments, learned counsel has relied upon following judgments:-

(i) Indu Khorana vs. Gram Sabha & Ors 2010 SCC Online Del 1334;

(ii) Narain Singh & Ors vs. Financial Commissioner & Ors LPA No. 591/2008;

(iii) Gur Pratap Singh vs. UOI 2004(78) DRJ 621;

(iv) Shri Neelpadmaya Consumer Products Pvt Ltd vs. Satyabir 2016 SCC Online Del 761;

(v) Sanraj Farms Pvt Ltd vs. Charan Singh 2019 SCC Online Del 10741;

(vi) Sushma Kapoor vs. Govt of NCT of Delhi 2021 SCC Online Del 5170;

(vii) Sanvik Engineers India Pvt Ltd & Anr vs. Govt of NCT of Delhi 2022 SCC Online Del 360;

(viii) Saroj Kumar Gupta & Ors vs. Govt of NCT of Delhi being W.P. (C) No.5842/2022. decided by this Hon'ble Court vide order dated 08.04.2022.

4. Learned counsel for the petitioner submitted that the impugned notice dated 7th January 2017, that has been issued by the Sub-Divisional Magistrate/Revenue Assistant on the alleged ground that the land is being used for non-agriculture purpose in contravention of Chapter III-D of the DLR Act, is wholly erroneous submitting to the effect that the land in question falls in Village Satbari which is included in the list of villages in the Green Belt where "Low Density Residential Plots" are permitted. Details of the villages inclusive of the Village Satbari is shown at serial no. 10 are placed on record in Annexure P-2 with the notification dated 7th February 2007. It is, thus, submitted on behalf of the petitioner that the land in Village Satbari is no more an agricultural land and is not governed by the DLR Act.

5. Learned counsel for the petitioner submitted that the provisions of the DLR Act were never applicable to the land in question at any point of time whatsoever for the reason of exemption

contained under Section 1 (2) (b) of the said Act and the same is a land governed and covered under the provisions of Punjab Land Revenue Act. It is further submitted that even assuming that the provisions of DLR Act ever applied to the land in question at any point of time, it is submitted that much prior to the initiation of the impugned proceedings under Section 81 of DLR Act in the year 2003, the land in question was already urbanized in the year 2019 by virtue and operation of the Notification dated 20th November 2019 issued under Section 507A of the DMC Act and consequent thereto the provisions of the DLR Act, (if ever applicable at all to the land in question), ceased to apply to and/or govern the land in question in any manner, the same being no longer an agricultural/rural land. The land in question, thus, does not fall within the scope and purview of the said Act and provisions thereof are not applicable to the said land at all.

6. Learned counsel for the petitioner submitted that Hon'ble Court in above catena of cases, once the provisions of the DLR Act have already ceased to apply to any piece of land, then all/any proceedings initiated under the provisions of the said Act in respect of said land are null, non-est and void ab initio, thus, totally untenable in law.

7. It is inter alia submitted on behalf of the petitioner that the judgment of this Court in Sanvik Engineers (Supra), wherein a classification has been made of four broad heads in relation to the aspect of applicability of the DLR Act or otherwise which read to the effect:

"CASE 1 Where proceedings have not been initiated and notifications under the DMC/DDA Acts intervene.

CASE 2 Where although proceedings have been initiated or a conditional order made, notifications come to be issued before a final order directing ejectment and vesting is passed.

CASE 3 Where the notifications come to be issued after a final order of ejectment and vesting comes to be made.

CASE 4 Where a notification comes to be issued during the pendency of an appeal or revision against a final order at the behest of the landholder or Gaon Sabha. "

8. Having been submitted on behalf of the petitioner that the case of the petitioner falls in CASE No.1 and 2 which aspect was answered by the Coordinate Bench of this Court in Sanvik (supra) to the effect:

"CASE 1

53. Insofar as CASE 1 is concerned, this need not detain the Court since it was fairly conceded by the respondents that where no proceedings have been drawn or initiated under Section 81 prior to the issuance of the notifications, no authority or jurisdiction would be retained to invoke the same. This position clearly flows from the decisions of the Court that have been noticed above and which have consistently taken the view

that once the land stands comprised in notifications issued under the DMC or the DDA Acts, it would stand excluded from the application of the DLR. This since it has ceased to answer to the description of land itself as defined in Section 3(13) of the Act. The Court thus comes to the firm conclusion that once the area has come to be urbanized and stands comprised in notifications issued under the DMC or the DDA Acts, the respondents would stand denuded of all jurisdiction and authority to initiate proceedings under Section 81 of the Act thereafter.

## CASE 2

54. Turning then to CASE 2, it must be held that once notifications come to be issued under the DMC or the DDA Acts, they manifest an unequivocal recognition of the fact of the land becoming urbanized and no longer falling within the sweep of Section 3(13). The Court also bears in mind the indubitable fact that Section 81 is primarily concerned with ensuring that rural land is not diverted to uses other than those specified in Section 3(13). If that be the primary and solitary objective of Section 81, as this Court duly recognises it to be, it would be wholly illogical and incongruous to require the owner or the occupier to restore the land to its agricultural state even though the surrounding area may have become totally urbanised. In fact, once the land ceasing to be of a rural character comes to be duly recognized, no purpose would be served in enforcing its restoration for agricultural purposes. In view of the above, this Court is of the considered view that the proceedings where they may have merely reached the stage of initiation or a conditional order having been passed, must abate and be liable to be dropped or closed. There would remain no legitimate or useful purpose to continue those proceedings once the aforesaid factual position comes to hold the field...

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62. Case 2 is dealing with a situation where proceedings drawn under Section 81 and 82 are yet to attain finality and orders of eviction and vesting yet to be made. This is thus a stage where the rights and liabilities of parties are still to have been finally determined or frozen. The proceedings are yet to crystallize into a binding adjudication. Case 2 deals with a situation where the proceedings are at a preliminary and nascent stage. Once the DLR has ceased to apply at this stage of the proceedings itself, there exists no justification in law to hold that those proceedings are liable to be taken to its conclusion. Viewed in light of the scheme and intent of Section 81 and 82, this Court is of the considered opinion that the said provision also would not warrant the continuation of those proceedings. "

9. Learned counsel for the petitioner further submitted that the respondent authorities while initiating and continuing the impugned proceedings under Section 81 of the DLR Act despite the land in question being already urbanized much prior thereto in the year 2019 itself, have also acted in violation and contravention of the Circular dated 30th July 2013 issued pursuant to the Cabinet

decision clarifying in categorical terms that the provisions of the DLR Act shall not apply to an area which is urbanized by way of notification under Section 507 of the DMC Act and further directing all the Deputy Commissioners, Revenue Assistants and other revenue staff to take note of the said Cabinet decision and act accordingly.

10. Learned ASC for the respondent has fairly conceded to the submissions made on behalf of the petitioner and has no objection if the case of the petitioner is decided in the light of the judgment of Sanvik (supra).

11. In the fact and circumstances and the verdict of Sanvik (supra) and submissions made on behalf of learned counsel for the respondents, notice LR-48 dated 7th January 2017 bearing case no. 172/SDM/SKT/2017/317 and case bearing no. 172/RA/SAKET/2017, titled as 'Gaon Sabha, Satbari Vs. Vijay Gupta' is thus set aside and all consequential proceedings emanating therefrom are also set aside.

12. The petition is disposed of accordingly.

CHANDRA DHARI SINGH, J SEPTEMBER 14, 2022 gs/ms