

A MOHINDER SINGH(DEAD) THROUGH LRS AND ANOTHER

v.

NARAIN SINGH AND OTHERS

(Civil Appeal No (s). 3828 of 2017)

B MARCH 14, 2019

**[AJAY RASTOGI , C. T. RAVIKUMAR AND  
BELA M. TRIVEDI, JJ.]**

C *Delhi Municipal Corporation Act, 1957 : ss. 2(52), 2(61), 502, 507(a) – Delhi Land Reforms Act, 1954 – ss. 3(5), 150 – Delhi Development Act, 1957 – Special provisions as to rural areas – Recorded Bhumidhar sold his land in a village in Delhi to one vide registered sale deed – He again sold some portion of his land to respondents vide sale deed in 1989 and their names were mutated subsequently – Appellants case that before the said sale deed could be executed in favour of the respondents, the appellants had come into possession over the subject land – Appellant never challenged the mutation order claiming adverse possession by filing appeal u/ s. 64 of the 1954 Act – Said order of mutation was set aside by Financial Commissioner holding that the said transfer was in contravention of s.33 of the 1954 Act and ordered that the land to be vested in Gaon Sabha – Challenged to, by respondent and the writ petition was dismissed – However, Division Bench held that once by issuance of a notification u/s. 507(a), the rural area-subject land is urbanised, it ceases to be rural area and be governed by the provisions of the 1954 Act in sequel thereto and proceedings under 1954 Act were non est – On appeal, held : On harmonizing the provisions of the 1954 Act and 1957 Act, once a notification has been published in exercise of power u/s. 507(a), the provisions of the 1954 Act cease to apply – In sequel thereto, the proceedings pending under the 1954 Act become non est and loses its legal significance – On facts, to do complete justice to the parties, the appellants directed to hand over physical possession of the subject land free from all encumbrances to the respondents – Constitution of India – Art.142.*

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Dismissing the appeal, the Court A

HELD: 1.1 The combined reading of the provisions clearly indicates that the Delhi Land Reforms Act, 1954 will not cover such area as defined in the first instance which may or before the first day of November, 1956 be included in a Municipality. The 'land' which has been defined u/s. 3(13) provides that except in sections 23 and 24, such of the land held or occupied for purpose connected with agriculture, horticulture or animal husbandry including pisciculture and poultry farming and further includes other categories which are part of land but at the same time, it does not include land occupied by building in belts or areas adjacent to Delhi town. [Para 25][268-D-E] B C

1.2 'Delhi town' has been defined under Section 3(5) of the Act which clearly defines that areas which immediately before the establishment of the Municipal Corporation of Delhi were included in the limits of Delhi Municipality. There is complete exclusion of the land occupied by buildings adjacent to Delhi town which falls before the establishment of Municipal Corporation of Delhi and is not a land covered for the purpose by deciding rights of the parties under tenure holder under Chapter II of the Act, 1954. [Para 26][268-F-G] D

1.3 Section 150(3), (4) and (5) of the Act indicate that if the Gaon Sabha area ceases to be included in rural areas as defined in the Act, 1957 by virtue of notification under Section 507 of the Act, the Gaon Sabha shall thereupon stand dissolved or if a portion of Gaon Sabha area ceases to be included in rural areas as aforesaid, the jurisdiction of the Gaon Sabha for that area ceases in respect of that portion and for that portion stands dissolved or to that extent, the size of the Gaon Sabha stands reduced as a result of a portion ceasing to be included in rural area. [Para 27][268-G-H; 269-A] E F

1.4 The Act, 1957 has been primarily enacted to have a uniform body to administer the Delhi Municipal Corporation to consolidate various bodies, local authorities, looking after the municipal affairs and to centralise for better administration and to overcome the problems being faced by various authorities as well as by the public. Section 2(52) defines the 'rural areas' which G H

- A demonstrates that the area of Delhi which immediately before the establishment of a Corporation, falls within the local limits of the District Board of Delhi, be considered to be the rural area but that shall not include such portion thereof which by virtue of notification u/s. 507 declared to be urbanized and it ceases to be included under the term ‘rural areas’ and Section 2(61) defines
- B ‘urban areas’ as the areas of Delhi which are not rural areas. [Para 29, 30][270-C-E]

- 1.5 Once there is a notification issued by the competent authority in exercise of power under Section 507(a) which is a special provision in reference to rural areas, such of the rural areas cease to be included therein upon issuance of the notification and shall thereafter include in and form part of the urban areas in terms of the notification. Sub-clause (b) and (c ) of Section 507 deals with the nature of grant of exemption or levy of taxes for such of the areas falling within the scope and ambit of the Act,
- C 1957. At the same time, Section 502 only provides that this Act (Act 1957) shall not be construed authorizing disregard to any law for the time being in force and rightly so for the reason, that scope and ambit of the Act, 1954, in no manner, has to be disregarded by the provisions of the Act, 1957. [Para 31, 32][270-E-H]

- E 1.6 Delhi Development Act, 1957 nowhere makes a distinction in the nature of land whether it is rural or urban, as the case may be. The DDA Act, 1957 is enacted with an object of development of Delhi according to sanctioned plan and for matters ancillary thereto. If the term ‘development’ as defined under
- F Section 2(e) of the DDA Act is considered, it clearly notifies that such of the area which has been declared to be a development area under Section 12, after publication in the official gazette, shall be considered a development area within the purport of the Act and it is a complete code in itself for the purpose of disposal
- G of land. The expression ‘land’ in Section 2(l) is in reference to the Land Acquisition Act, 1894. DDA Act is only for the purpose of development of Delhi according to the sanctioned master plan and zonal development plan notified under Section 7 of the Act and for matters ancillary thereto regardless of fact whether it is a

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rural area or urbanized which is for different purposes covered A  
by the provisions of the Act, 1954 and Act 1957. [Para 33, 35][271-  
A-C; 272-F-G]

1.7 After harmonizing the provisions of the Act, 1954 and  
Act 1957, once a notification has been published in exercise of B  
power u/s. 507(a) of the Act, 1957, the provisions of the Act,  
1954 cease to apply. In sequel thereto, the proceedings pending  
under the Act, 1954 become non est and loses its legal  
significance. [Para 36][272-G-H]

1.8 The respondents purchased the subject land from M  
(recorded Bhumidhar) by a registered sale deed in 1989 and C  
subsequently,mutation also, at one time, was opened in their  
names. Later, they were compelled to file a civil suit in the year  
1990 for taking over possession of the subject property in  
question. It reveals from the record that after a few rounds of  
litigation, the Financial Commissioner set aside the order of D  
mutation, the matter later travelled to the Division Bench of the  
High Court of Delhi and it was held that once the rural area is  
urbanized by issuance of notification under Section 507(a), it  
ceases to be governed by the provisions of Act, 1954. [Para 40,  
41][273-G-H; 274-A-B]

1.9 Even after upholding the judgment of the Division Bench E  
of the High Court it gives a fresh life to the respondents to go  
ahead in taking possession of the subject property despite the  
fact that registered sale deed was executed in their favour by M  
(Bhumidhar) but they are still deprived of possession and the  
defence of the appellants in counter is that they are in possession F  
of the subject land by adverse possession. At the same time, this  
Court may also record that the registered sale deed executed in  
favour of the respondents by M (Bhumidhar) was never the  
subject matter of challenge and no such proceedings are pending  
in the Court of law. [Para 42][274-B-D]

1.10 The civil suit filed at the instance of the respondents G  
for taking possession of the subject land which is pending for the  
last 32 years has not started its journey as yet and this is called  
the travesty of injustice to a person who is indisputedly the title

- A holder still unable to enjoy the property. In the given facts and circumstances, in exercise of the power under Article 142 and to do complete justice to the parties, the appellants are directed to hand over physical possession of the subject land free from all encumbrances to the respondents within the stipulated period. [Para 43, 44][274-D-G]

B *Om Prakash Agarwal and Others v. Batara Behera and Others* (1999) 3 SCC 231 : [1999] 1 SCR 969 – held inapplicable.

C *Umed Singh v. Govt. of NCT of Delhi and Others* 1997 SCC Online Del 842 – disapproved.

*Smt. Indu Khorana v. Gram Sabha and Others* 2010 SCC Online DEL 1334 – approved.

#### Case Law Reference

D [1999] 1 SCR 969 held inapplicable Para 38

CIVIL APPELLATE JURISDICTION: Civil Appeal No. 3828 of 2017.

From the Judgment and Order dated 22.11.2012 of the High Court of Delhi at New Delhi in LPA No. 591 of 2008.

E Rakesh Dwivedi, Sr. Adv., Sidharth Gupta, Kushal Sarkar, R. C. Kaushik, Advs. for the Appellants.

F Vikas Singh, Sr. Adv., Anmol Chandan, Ms. Deepika Kalia, Rishi Kumar Singh Gautam, Chandra Pratap, Aditya Kaul, Arvind Rana, Vaishnavi, Bankey Bihari, Gurmeet Singh Makker, Advs. for the Repondents.

The Judgment of the Court was delivered by

**RASTOGI, J.**

- G 1. The instant appeal is directed against the judgment and order dated 22<sup>nd</sup> November, 2012 passed by the Division Bench of the High Court of Delhi holding that once the rural area is urbanized by issuance of a notification under Section 507(a) of the Delhi Municipal Corporation Act, 1957(hereinafter being referred to as the “Act 1957”), it ceases to be governed by the provisions of the Delhi Land Reforms Act, 1954 (hereinafter being referred to as the “Act 1954”) in sequel thereto and
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held that the proceedings under Act, 1954 were *non est* leaving the parties to agitate their claims/disputes before appropriate fora clarifying that all pleas in law shall remain available to the parties before the appropriate forum. A

2. The facts in seriatim as manifest from the record are that one Maman Singh who was a recorded Bhumidhar of the land admeasuring 4 Bighas 18 Biswas in Khasra No. 6/19/2 M in village Samepur, Delhi as alleged, sold the land to one Bhai Ram vide registered sale deed dated 9<sup>th</sup> March, 1970. The respondents Narain Singh and Som Dutt have purchased 2 Bighas 18 Biswas and 2 Bighas respectively from Shri Maman Singh by a registered sale deed dated 4<sup>th</sup> May, 1989. Later, they applied for mutation under Act, 1954 and their names were mutated on 31<sup>st</sup> May, 1989. B C

3. It has been pleaded by the appellants that before the registered sale deed dated 4<sup>th</sup> May, 1989 came to be executed by Maman Singh in favour of the respondents herein and their names were mutated on 31<sup>st</sup> May, 1989, the appellants had come into possession over the subject land. The appellants later challenged the mutation order dated 31<sup>st</sup> May, 1989 opened in favour of the respondents claiming adverse possession by filing appeal under Section 64 of the Act 1954. After certain rounds of litigation, the Financial Commissioner set aside the order of mutation passed in favour of the respondents by Order dated 10<sup>th</sup> February, 1995 holding that the transfer was in contravention of Section 33 of the Act, 1954 and further ordered the land in dispute to be vested in Gaon Sabha. D E

4. It is relevant to mention that the Order of the Financial Commissioner dated 10<sup>th</sup> February, 1995 wherein it was observed “land in dispute ordered to be vested in Gaon Sabha” was never challenged by the appellants whereas the respondents challenged the Order dated 10<sup>th</sup> February, 1995 by filing Writ Petition (civil) No. 670 of 1995 before the learned Single Judge of the Delhi High Court which came to be dismissed by judgment dated 14<sup>th</sup> July, 2008 and that became the subject matter of challenge at the instance of the respondents assailing in LPA No. 591 of 2008. F G

5. The Division Bench of the High Court returned a finding that once the notification dated 23<sup>rd</sup> April, 1982 has been published in exercise of power under Section 507(a) of the Act, 1957 which expressly urbanizes the subject land in question and brings within the scope and H

- A ambit of Act, 1957, it no more remains rural area thus, all proceedings under the Act, 1954 stand *non est* leaving the parties to agitate their claims/disputes before appropriate fora with a clarification that all the pleas in law shall remain available to the parties before the appropriate fora which may be adopted for redressal of grievance under judgment impugned dated 22<sup>nd</sup> November, 2012 which is a subject matter of challenge in appeal before us.
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6. In this context, it may be noticed that respondents Narain Singh and Som Dutt had filed a Civil Suit for mandatory injunction along with an application under Order XXXIX Rule 1 & 2 of Code of Civil Procedure, 1908 for grant of temporary injunction. The matter at the stage of temporary jurisdiction travelled to this Court in a special leave petition filed at the instance of respondents which was dismissed by Order dated 23<sup>rd</sup> January, 1992 with a direction to the revenue authorities to decide the matter in four months. Subsequently, by order dated 2<sup>nd</sup> September, 1992, this Court directed the concerned SHO to hand over possession to the appellants herein and pursuant to Order of this Court, the appellants are in possession of the subject land in question.
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7. The main thrust of submission of Mr. Rakesh Dwivedi, learned senior counsel for the appellants is that apart from the order passed by this Court dated 2<sup>nd</sup> September, 1992 to hand over possession of the subject land to the appellants, it can further be supported from the notice issued under Section 81 by SDM to the present appellants dated 18<sup>th</sup> January, 1984 which indicates that the appellants are in possession.
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8. Learned counsel further submits that once Maman Singh had sold the land by registered sale deed in favour of Bhai Ram on 9<sup>th</sup> March, 1970 and handed over possession thereof, he (Maman Singh) had no right, title and interest to execute the successive sale deed and he could not hand over possession to the respondents of the subject land. That apart, the possession handed over to the appellants has been upheld.
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9. Learned counsel further submits that after taking holistic view of the Act, 1954 and of Act 1957, even after declaration of urbanization by issuance of notification under Section 507(a) of the Act 1957, it will not cease the right of the parties *inter se* conferred under provisions of the Act 1954. There is no provision under the Act, 1957 which may suggest issuance of the notification of urbanizing under Section 507(a) of the Act ceases automatically the provisions of the Act 1954. That apart, Section 150(3) of the Act, 1954 specifically provides for the
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consequences when whole of Gaon Sabha cease to be a rural area by virtue of Section 507 of the Act, 1957. The consequence of dissolution of Gaon Sabha and sub- clause (e) of Section 150(3) specifically says that the provisions of this Act, 1954 shall apply. A

10. Learned counsel submits that the Act, 1954 is one such law which is a special Act relating to land reforms by virtue of Section 1(2) which extends to the whole of the UT of Delhi. The area covered under Act, 1957 is not so excluded. It creates rights of tenure holders and Bhumidhar within the ambit of Section 5 and such rights can be acquired in various ways. Under Chapter III, Section C relates to user of land and Section D pertains to transfer of land by Bhumidhar and Section E pertains to devolution and Section F pertains to partition. Thus, Act, 1954 is a special code pertaining to the rights of Bhumidhar and other tenure holders. B C

11. Learned counsel further submits that so far as the Act, 1957 is concerned, it is the Act which deals with Delhi Municipal Corporation. There is nothing in the Act, 1957 to suggest that it purports to regulate the tenure of Bhumidhar in the UT of Delhi after the urbanization of area is notified. Since the purport of Act, 1957 is not to govern the holding of the tenure, it has been specifically provided by Section 502 that other laws are not to be disregarded for the time being in force. D

12. In substance, learned counsel submits that Act, 1954 continues to operate even after urbanization under Section 507(a) of the Act, 1957 and further submits that the finding returned by the Division Bench of the High Court in the impugned judgment is not legally sustainable and deserves to be interfered with by this Court. In support of his submission, learned counsel has placed reliance on the judgment of this Court in *Om Prakash Agarwal and Others Vs. Batara Behera and Others*<sup>1</sup>. E F

13. Learned counsel further submits that the Division Bench of the High Court has not taken note of the earlier view expressed by the Division Bench of the High Court in *Umed Singh Vs. Govt. of NCT of Delhi and Others*<sup>2</sup> and that the earlier Division Bench of the High Court also considered the scheme of Act, 1957 and Act, 1954 and has returned a finding that on issuance of notification under Section 507(a) of the Act 1957, it may not cease the rights of the parties *inter se* existing under G

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<sup>1</sup>1999(3) SCC 231

<sup>2</sup>1997 SCC Online Del 842



- A the Act, 1954 and, in the given circumstances, judgment needs to be interfered with by this Court.

14. Per contra, Mr. Vikas Singh, learned senior counsel for the respondents, submits that the respondents Narain Singh and Som Dutt purchased 2 Bighas 18 Biswas and 2 Bighas respectively from the Bhumidhar Maman Singh by a registered sale deed dated 4<sup>th</sup> May, 1989. So far as the right, title and interest on the subject property is concerned, it vested in favour of the respondents. The registered sale deed dated 4<sup>th</sup> May, 1989 has never been questioned by Bhai Ram who could be said to be the person aggrieved by the subsequent sale transaction as has been alleged by the appellants. Even the right claimed by the appellants of adverse possession is a weak right and not legally sustainable. In this regard, the civil suit which has been filed at their instance is practically a non-starter because of pendency of the present appeal still the appellants have no right, title and interest over the subject property in question.

15. Learned counsel further submits that looking to the scheme of the Act, 1954 and of Act, 1957, while harmonizing, both are governed in different fields and once the notification has been published under Section 507(a) declaring the land to be urbanized, which in the instant case is not disputed, the mutation proceedings pending under the Act, 1954 stand ceased as the land does not exist to be rural area and, thus, no error has been committed by the Division Bench of the High Court in returning a finding that all mutation proceedings stand ceased after the publication of the notification under Section 507(a) of the Act, 1957.

16. Learned counsel further submits that this is the consistent view of the Delhi High Court and apart from the judgment impugned, this very question and effect of issuance of the notification under Section 507(a) of the Act, 1957 was earlier examined by the High Court in *Smt. Indu Khorana Vs. Gram Sabha and Others*<sup>3</sup> which was decided on 26<sup>th</sup> March, 2010 and after examining the scheme of Act, 1954 and Act, 1957, it was held that once the rural area is declared to be urbanized by issuance of notification under Section 507(a) of the Act, 1957, provisions of the Act, 1954 cease to apply.

17. Learned counsel further submits that after the matter being examined by the Division Bench of the High Court by two different Benches, this being consistently followed in the later judgments by the

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H <sup>3</sup> 2010 SCCOnline DEL 1334

High Court of Delhi and unless this Court comes to the conclusion that interpretation as exposed of the Act, 1954 and Act, 1957 are completely perverse and unsustainable, ordinarily may not be interfered with by this Court. A

18. Learned counsel further submits that so far as the present respondents are concerned, despite holding right, title and interest in the subject land in question, pursuant to the registered sale deed dated 4<sup>th</sup> May, 1989, and their name being mutated at one stage on 31<sup>st</sup> May, 1989, in the given circumstances, at least appellants have no legal right to hold possession of the subject land although the suit has been filed at the instance of the respondents and submits that this Court may consider to restore possession in favour of the respondents to avoid multiplicity of litigation in the interest of justice. B C

19. We have heard learned counsel for the parties and with their assistance perused the material available on record.

20. The factual matrix which has come on record is not disputed between the parties. The question of law that raised for consideration is that once the rural area is urbanized by issuance of notification under the Act 1957, what will be the effect to the provisions of the Act, 1954 in sequel thereto. D

21. We would like to take a bird's eye view of the relevant provision of the Acts to examine the question raised for our consideration. E

22. The Act, 1954 was enacted with an object to create a uniform body of peasant proprietors without intermediaries, for the unification of the tenancy laws in force in Delhi and to make provisions for other matters connected therewith. F

23. Section 1(2) of the Act, 1954 extends to the whole Union Territory of Delhi, but shall not apply to the areas notified in Section 1(2)(a) of the Act, 1954, i.e. such an area which are or may before the first day of November, 1956 be included in a Municipality or a notified area under the relevant Acts. G

24. It may be apposite to take note of the relevant provisions of the Act before we appreciate the effect and ambit of Act, 1954 which are as follows:-

“1. (I) This Act may be called the Delhi Land Reforms Act, 1954.

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- A (2) It extends to the whole of the Union territory of Delhi, but shall not apply to-
- (a) the areas which are or may before the first day of November, 1956 be included in a Municipality or a Notified Area under the provisions of the Punjab Municipal Act 1911,
- B or a Cantonment under the provisions of the Cantonments Act, 1924,
3. Definitions. - In this Act, unless the Context otherwise requires-  
(1) to (4)....
- C “(5) “Delhi town” means the areas which immediately before the establishment of the Municipal Corporation of Delhi were included in the limits of Delhi Municipality, Civil Station Notified Area, West Delhi Municipality and the Fort Notified Area;
- (6) to (12)....
- D (13) “land” except in sections 23 and 24, means land held or occupied for purpose connected with agriculture, horticulture or animal husbandry including pisciculture and poultry farming and includes-
- (a) buildings appurtenant thereto,
- E (b) village abadis,
- (c) grovelands,
- (d) lands for village pasture or land covered by water and used for growing singharas and other produce or land in the bed of a river and used for casual or occasional cultivation,
- F but does not include-  
land occupied by buildings in belts of areas adjacent to Dehi town, which the Chief Commissioner may by a notification in the Official Gazette declare as an acquisition thereto;
- G 150. (1) & (2)....
- (3) If the whole of a *Gaon Sabha* area ceases to be included in rural areas as defined in the Delhi Municipal Corporation Act, 1957, by virtue of a notification under section 507 of that Act, the *Gaon Sabha* constituted for that area shall thereupon stand
- H dissolved and on such dissolution,-

- (a) all properties, movable and immovable, and all interests of whatsoever nature and kind therein including moneys held in *Gaon Sabha* Area Fund, vested in the Gaon Sabha immediately before such dissolution, shall, with all rights of whatsoever description, used, enjoyed or possessed by *Gaon Sabha*, vest in the Central Government; A
- (b) all duties, obligations and liabilities incurred, all contracts entered into and all matters and things engaged to be done by, with or for the *Gaon Sabha* before such dissolution shall be deemed to have been incurred, entered into or engaged to be done with or for the Central Government; B
- (c) all rates, taxes, fees, rents and other charges due to the *Gaon Sabha* immediately before such dissolution shall be deemed to be due to the Central Government; C
- (d) all suits, prosecutions and other legal proceedings instituted or which might have been instituted by or against the *Gaon Sabha* may be continued or instituted by or against the Union of India; D
- (e) the provisions of this Act shall apply in relation to lands in such *Gaon Sabha* area, not being lands vested in the Central Government clause (a), subject to the modification that references therein to *Gaon Sabha* and Gaon Panchayat shall be construed as references to the Central Government; E
- (f) notwithstanding anything contained in clause (b) of sub-section (2) of section 1, the provisions of sections 84, 85, 86A and 87 and any other provision of this Act relating to ejectment of persons shall apply in relation to lands vested in the Central Government under clause (a) subject to the modification that references therein to Gaon Sabha and Gaon Panchayat shall be construed as references to the Central Government. F
- (4) If only a portion of a *Gaon Sabha* area ceases to be included in rural areas as aforesaid the jurisdiction of the *Gaon Sabha* constituted for that area shall cease in respect of that portion and upon such cesser, the provisions of clause (a) to (f) of sub-section G
- (3) shall apply to that portion as if the *Gaon Sabha* had been H

A constituted for that portion alone and dissolved, subject to such incidental and consequential orders as the Chief Commissioner may deem necessary to make.

(5) If the size of a *Gaon Sabha* Area is reduced as a result of a portion thereof ceasing to be included in rural areas as aforesaid and the Chief Commissioner is of the opinion that the size of the *Gaon Sabha* area is not sufficiently large to be under the jurisdiction of a separate Gaon Sabha, he may, by notification in the Official Gazette, declare that such *Gaon Sabha* area shall, from a date to be specified in the notification, cease to be a separate *Gaon Sabha* area and the *Gaon Sabha* constituted there for shall stand dissolved and may direct that the said area shall be included in one or more adjoining *Gaon Sabha* areas, and thereupon the provisions of section 3 of the Delhi Panchayat Raj Act, 1954 (Delhi Act 3 of 1955), shall, so far as may be, apply.”

D 25. The combined reading of the relevant provisions referred to hereinabove clearly indicates that the Act, 1954 will not cover such area as defined in the first instance which may or before the first day of November, 1956 be included in a Municipality. The ‘land’ which has been defined under Section 3(13) provides that except in sections 23 and 24, such of the land held or occupied for purpose connected with agriculture, horticulture or animal husbandry including pisciculture and poultry farming and further includes other categories which are part of land but at the same time, it does not include land occupied by building in belts or areas adjacent to Delhi town.

F 26. ‘Delhi town’ has been defined under Section 3(5) of the Act which clearly defines that areas which immediately before the establishment of the Municipal Corporation of Delhi were included in the limits of Delhi Municipality. There is complete exclusion of the land occupied by buildings adjacent to Delhi town which falls before the establishment of Municipal Corporation of Delhi and is not a land covered for the purpose by deciding rights of the parties under tenure holder under Chapter II of the Act, 1954.

H 27. At the same time, Section 150(3), (4) and (5) of the Act indicate that if the Gaon Sabha area ceases to be included in rural areas as defined in the Act, 1957 by virtue of notification under Section 507 of the Act, the Gaon Sabha shall thereupon stand dissolved or if a portion of Gaon Sabha area ceases to be included in rural areas as aforesaid, the

jurisdiction of the Gaon Sabha for that area ceases in respect of that portion and for that portion stands dissolved or to that extent, the size of the Gaon Sabha stands reduced as a result of a portion ceasing to be included in rural area as aforesaid. A

28. Let us take a view of relevant provisions of Act, 1957 for the present purpose which are as under:- B

“2(52) “rural areas” means the areas of Delhi which immediately before the establishment of a Corporation are situated within the local limits of the District Board of Delhi established under the Punjab District Boards Act, 1883 (Punjab Act 20 of 1883), but shall not include such portion thereof as may, by virtue of a notification under section 507, cease to be included in the rural areas as herein defined; C

2(61) “urban areas” means the areas of Delhi which are not rural areas;

502. Other laws not to be disregarded— Save as provided in this Act, nothing contained in this Act shall be construed as authorising the disregard by a Corporation or any municipal authority or any municipal officer or other municipal employee of any law for the time being in force. D

507. Special provisions as to rural areas.— Notwithstanding anything contained in the foregoing provisions of this Act,— E

(a) a Corporation with the previous approval of the Government, may, by notification in the Official Gazette, declare that any portion of the rural areas shall cease to be included therein and upon the issue of such notification that portion shall be included in and form part of the urban areas; F

(b) a Corporation with the previous approval of the Government may, by notification in the Official Gazette,—

(i) exempt the rural areas or any portion thereof from such of the provisions of this Act as it deems fit, G

(ii) levy taxes, rates, fees and other charges in the rural areas or any portion thereof at rates lower than those at which such taxes, rates, fees and other charges are levied in the urban areas or exempt such areas or portion from any such tax, rate, fee or other charge.” H

- A (c) a Corporation shall pay a Gaon Sabha-
- (i) an amount equal to the proceeds of the tax on profession, trades, callings and employments, as and when that tax is levied in the Gaon Sabha area, and
  - (ii) an amount equal to such portion of the proceeds of the property taxes on lands and buildings in that area as may from time to time be determined by a Corporation, after deducting the cost of collection from such proceeds.
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C 29. The Act, 1957 has been primarily enacted to have a uniform body to administer the Delhi Municipal Corporation to consolidate various bodies, local authorities, looking after the municipal affairs and to centralise for better administration and to overcome the problems being faced by various authorities as well as by the public.

D 30. Section 2(52) defines the 'rural areas' which demonstrates that the area of Delhi which immediately before the establishment of a Corporation, falls within the local limits of the District Board of Delhi, be considered to be the rural area but that shall not include such portion thereof which by virtue of notification under Section 507 declared to be urbanized and it ceases to be included under the term 'rural areas' and Section 2(61) defines 'urban areas' as the areas of Delhi which are not rural areas.

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F 31. To simplify it further, once there is a notification issued by the competent authority in exercise of power under Section 507(a) which is a special provision in reference to rural areas, such of the rural areas cease to be included therein upon issuance of the notification and shall thereafter include in and form part of the urban areas in terms of the notification. Sub-clause (b) and (c) of Section 507 deals with the nature of grant of exemption or levy of taxes for such of the areas falling within the scope and ambit of the Act, 1957.

G 32. At the same time, Section 502 on which the learned counsel for the appellants has given more emphasis, it only provides that this Act(Act 1957) shall not be construed authorizing disregard to any law for the time being in force and rightly so for the reason, that scope and ambit of the Act, 1954, in no manner, has to be disregarded by the provisions of the Act, 1957.

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33. At this stage, if we look into the Delhi Development Act, 1957(hereinafter being referred to as the “DDA Act”), it nowhere makes a distinction in the nature of land whether it is rural or urban, as the case may be. The DDA Act, 1957 is enacted with an object of development of Delhi according to sanctioned plan and for matters ancillary thereto. If we consider the term ‘development’ as defined under Section 2(e) of the DDA Act, it clearly notifies that such of the area which has been declared to be a development area under Section 12, after publication in the official gazette, shall be considered a development area within the purport of the Act and it is a complete code in itself for the purpose of disposal of land. The expression ‘land’ in Section 2(l) is in reference to the Land Acquisition Act, 1894.

34. Relevant Sections of Act, 1957 are reproduced hereunder:-

“2(e) “development area” means any area declared to be a development area under sub-section (1) of section 12;

2(l) the expression “land” shall have the meaning assigned to it in section 3 of the Land Acquisition Act, 1894.

12. Declaration of development areas and development of land in those and other areas.—

(1) As soon as may be after the commencement of this Act, the Central Government may, by notification in the Official Gazette, declare any area in Delhi to be a development area for the purposes of this Act:

Provided that no such declaration shall be made unless a proposal for such declaration has been referred by the Central Government to the Authority and the Municipal Corporation of Delhi for expressing their views thereon within thirty days from the date of the receipt of the reference or within such further period as the Central Government may allow and the period so specified or allowed has expired.

(2) Save as otherwise provided in this Act, the Authority shall not undertake or carry out any development of land in any area which is not a development area.

(3) After the commencement of this Act no development of land shall be undertaken or carried out in any area by any person or body (including a department of Government) unless,—



- A (i) where that area is a development area, permission for such development has been obtained in writing from the Authority in accordance with the provisions of this Act;
- (ii) where that area is an area other than a development area, approval of, or sanction for, such development has been
- B obtained in writing from the local authority concerned or any officer or authority thereof empowered or authorised in this behalf, in accordance with the provisions made by or under the law governing such authority or until such provisions have been made, in accordance with the
- C provisions of the regulations relating to the grant of permission for development made under the Delhi (Control of Building Operations) Act, 1955 (53 of 1955), and in force immediately before the commencement of this Act:

D Provided that the local authority concerned may [subject to the provisions of section 53A] amend those regulations in their application to such area.

- (4) After the coming into operation of any of the plans in any area no development shall be undertaken or carried out in that area unless such development is also in accordance with such plans.
- E (5) Notwithstanding anything contained in sub-sections (3) and (4) development of any land begun by any department of Government or any local authority before the commencement of this Act may be completed by that department or local authority without compliance with the requirements of those sub-sections.”

F 35. So far as the DDA Act is concerned, it is only for the purpose of development of Delhi according to the sanctioned master plan and zonal development plan notified under Section 7 of the Act and for matters ancillary thereto regardless of fact whether it is a rural area or urbanized which is for different purposes covered by the provisions of the Act, 1954 and Act 1957.

G 36. After harmonizing the provisions of the Act, 1954 and Act 1957, we are of the considered view that once a notification has been published in exercise of power under Section 507(a) of the Act, 1957, the provisions of the Act, 1954 cease to apply. In sequel thereto, the proceedings pending under the Act, 1954 become *non est* and loses its

H legal significance.

37. We approve the view expressed by the Division Bench of the High Court in **Smt. Indu Khorana** (supra) which was later followed in the judgment impugned by the Division Bench of the High Court dated 22<sup>nd</sup> November, 2012. A

38. So far as the judgment of this Court in **Om Prakash Agarwal & Others** (supra) on which learned counsel for the appellants has placed reliance is concerned, in the first instance, there was no such notification under the relevant laws which declared the land to be urbanized as published in the instant case under Section 507(a) of the Act, 1957 and the objection raised by the learned counsel was in reference to the scope and ambit of the Orissa Land Reforms Act, 1960 and the question was whether the reforms Act has any application to the land which is a part of the master plan of the city under the provisions of the Orissa Land Reforms Act, 1960. In that reference, the observations were made by this Court as to what extent the provisions of the reforms Act will apply in reference to agricultural or other purposes. This Court was very conscious that no notification had been published in the case on hand which reserved for urbanization within the scope and ambit of Section 73(c) of the Orrisa Land Reforms Act, 1960 which, in our view, may not be of any assistance to the appellants. B  
C  
D

39. So far as the submission made in reference to the earlier judgment of the Division Bench of the High Court of Delhi which has not been looked into by the Division Bench under the impugned judgment in the case of **Umed Singh**(supra) is concerned, on principle, we are not in agreement with the view expressed by the High Court in **Umed Singh**(supra), at the same time, we would like to observe that the case was in reference to consolidation notification issued on 8<sup>th</sup> September, 1993, and what will be the effect of Consolidation and Prevention of Fragmentation Act, 1948, in that reference, the High Court examined the scope and ambit of the Act, 1957. E  
F

40. Before we conclude, we may like to observe that the respondents purchased the subject land from Maman Singh (recorded Bhumidhar) by a registered sale deed dated 4<sup>th</sup> May, 1989 and mutation also, at one time, was opened in their names on 31<sup>st</sup> May, 1989. Later, they were compelled to file a civil suit in the year 1990 for taking over possession of the subject property in question. G

41. It reveals from the record that after a few rounds of litigation, the Financial Commissioner set aside the order of mutation by Order H

A dated 10<sup>th</sup> February, 1995, the matter later travelled to the Division Bench of the High Court of Delhi and by judgment dated 22<sup>nd</sup> November, 2012, it was held that once the rural area is urbanized by issuance of notification under Section 507(a) of the Act, 1957, it ceases to be governed by the provisions of Act, 1954.

B 42. What persuaded this Court is that even after upholding the judgment of the Division Bench of the High Court dated 22<sup>nd</sup> November, 2012, it gives a fresh life to the respondents to go ahead in taking possession of the subject property despite the fact that registered sale deed dated 4<sup>th</sup> May, 1989 was executed in their favour by Maman Singh(Bhumidhar) but they are still deprived of possession and the  
C defence of the appellants in counter is that they are in possession of the subject land by adverse possession. At the same time, this Court may also record that the registered sale deed dated 4<sup>th</sup> May, 1989 executed in favour of the respondents by Maman Singh (Bhumidhar) was never the subject matter of challenge and no such proceedings are pending in  
D the Court of law.

43. At this point of time, it reminds us that the civil suit filed at the instance of the respondents for taking possession of the subject land which is pending for the last 32 years has not started its journey as yet and this is called the travesty of injustice to a person who is indisputedly  
E the title holder still unable to enjoy the property.

44. In the given facts and circumstances, in exercise of our power under Article 142 of the Constitution and to do complete justice to the parties, we direct the appellants to hand over physical possession of the subject land free from all encumbrances to the respondents within a  
F period of two months from the date of passing of this Order. If the appellants fail to hand over possession within the time stipulated, it will be open to the respondents to make an application to the concerned jurisdictional Judicial Magistrate and after obtaining necessary orders with assistance of the local administration may proceed for taking possession of the subject land. It goes without saying that the possession  
G has to be handed over in terms of the registered sale deed dated 4<sup>th</sup> May, 1989 which has been executed by Maman Singh (Bhumidhar) in the names of the respective respondents.

45. The pending civil suit in the above terms stands disposed of.

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MOHINDER SINGH(DEAD) THROUGH LRS AND ANOTHER 275  
v. NARAIN SINGH AND OTHERS [AJAY RASTOGI, J.]

46. We find no substance in the instant appeal. The same is hereby A  
dismissed with the observations afore-stated. No costs.

47. Pending application(s), if any, shall stand disposed of.

Nidhi Jain  
(Assisted by : Tamana, LCRA)

Appeal dismissed.