

IN THE COURT OF SH. ALOK SHARMA, S.D.M./R.A.(VASANT VIHAR)
OLD TERMINAL TAX BUILDING, KAPESHERA, DELHI-110037

No. 1540-1543

Dated: 10/2/2014

CASE No.108/RA/2012 u/s 81 of DLR ACT.

G.S. Ghitorni

Applicant

vs.

Savita Gupta

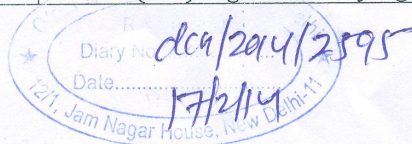
Respondent

Whereas an application dated 11-07-2012 was filed by Smt. Savita Gupta w/o Sh. Vijay Kumar Gupta. The applicant stated about filing of petition u/s 187 of DLR Act, 1954 against the final order dated 26-4-2010 passed in case No.60/RA/2009 by this court, vide which, land bearing Khasra No.647/1(4-9) and 648/2(4-12) of Village Ghitorni, was vested into Gaon Sabha. The applicant stated that vide order dated 31/05/2012 of Hon'ble Financial Commissioner case has been remanded back to this Court directing to carry out a detailed enquiry with proper appreciation of the facts and fresh assessment of the reality before passing an order under section 81 of DLR Act after hearing the parties.

Whereas Supdt., Court of Financial Commissioner, Delhi vide No.164/2011 dated 18-09-2013 had forwarded copy of order dated 31/05/2012 passed by the Financial Commissioner, Delhi for information and necessary action. The Hon'ble Financial Commissioner vide order dated 31/05/2012 had remanded back the case for detailed inquiry with proper appreciation of the facts and fresh assessment of the realities before passing the order after hearing all the parties concerned.

Whereas records of case No.164/RA/2011 has been recalled from Recordroom and order No.60/RA/2009/2479-80 dated 27/4/2010 has been observed alongwith Halka Patwari report dated 12/03/2010 stating the following:

Khasra No.	Area	Field status of site
647/1	4-9	1. (2-4) : House with boundary wall and Godown has been constructed. 2. (2-5): Agriculture lying vacant.
648/2	(4-12)	1. (2-6): House with boundary wall and godown has been constructed. 2. (2-6): Agriculture lying vacant.

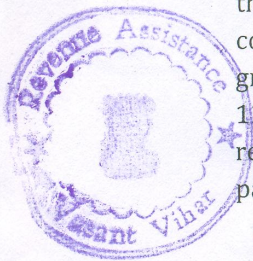


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Reply/objections on behalf of Smt. Savita Gupta has been received stating following "that proceedings u/s 81 of DLR Act were initiated in r/o land bearing Khasra no.s647/1(4-9) and 648/2(4-12) of Village Ghitorni on the report of Halqa Patwari dated 04-05-2009 and 12-03-2010 wherein it was reported that the land bearing Khasra Nos.647/1 and 648/2 is recorded in Bhoomidari holding of Shri Tek Ram to the extent of ½ share and in the name of petitioner to the extent of remaining ½ share. It was reported by Halqa Patwari that Sh. Tek Ram is using his ½ share of the land by converting user of agricultural into non-agricultural use which is in violation of section 81 of DLR Act. Alongwith the report, Halka Patwari had also mentioned that Sh. Tek Ram had raised construction and it was also reported that the remaining ½ share of the respondent Smt. Savita Gupta is not involved in any non-agricultural use, but proceedings in respect of the entire land was initiated. That answering respondent has never used her Bhoomidari holding to the extent of ½ share in contravention of the provisions of the Act as she had always used her Bhoomidari holding for agricultural purposes alone as also evident from the Patwari reports dt.4/5/2009 and 12/3/2010".

An affidavit has been filed by appellant Smt. Savita Gupta stating therein that "on spot she is in possession of her ½ share i.e. 4 Bighas 10½ Biswas comprised in Kh.No.647/1 (West) (2-4½), 648/2(West) (2-06) show in red in the map attached and that her entire said land i.e. 4 Bighas 10½ Biswas has always been under agriculture use and presently crop of Jwar is tending therein, photo's dated 16-10-2013 & 14-9-2013 are attached for evidence and there is no violation of Sec 81 of DLR Act 1954 on the land under her share of possession and no construction except one electricity meter cum servant & equipment room. That her co-sharer, Shri Tek Ram s/o Deth Singh is in possession of the same ½ share in 9-01 i.e. an area equivalent to 4 Bighas 10 ½ Biswas falling to east of both the Kh.Nos647/1(East) (2-4 ½) and 648/2(East)(02-6) show in blue map and he has built up a godown in the land under his share and possession as evident from the then Halqa Patwari report".

The Counsel for Gram Sabha had filed rejoinder to the reply/objection filed by Smt. Savita Gupta, stating that contents of para 2 of the reply are wrong that proceedings u/s 81 of DLR Act were initiated in respect of land comprised in Kh.No.647/1(4-9) and 648/2 (4-12) of village Ghitorni upon a grossly misconceived report of Halka Patwari dated 04/5/2009 and 12/3/2010 and rest of the contents of this para of the reply are matter of record and respondent may be put to the strict proof thereof and there is no partition as per the revenue record.



A report dated 06/02/2014 has been submitted by Halka Patwari, stating that land bearing Khasra No.647/1(4-9), 648/2(4-12) was examined on spot and informed the following:

Khasra No.	Area	Field status of site
647/1	4-9	On the spot on area of (2-4) House, boundary wall and godown has been constructed and approx (2-5) area is lying vacant.
648/2	(4-12)	In area approx (2-6) boundary wall and godown has been constructed and on (0-2) kotha has been constructed.

It has further been stated by Halqa Patwari in his report that on the spot Sh. Vijay Gupta informed him ownership of ½ share of Khasra No.647/1(4-9) and 648/2(4-12) is in his wife name and the remaining ½ share where boundary wall and godown has been constructed is in the name of Sh. Tek Ram and vacant lying area and having hut belongs to Smt. Savita Gupta.

After going through the arguments and submission made before me and after going through the Halqa Patwari report dated 04-05-2009, 12-03-2010 and 06-03-2013, it has been clearly indicated that Sh. Tek Ram had made construction godown in his own portion and portion of appellant Smt. Savita Gupta is lying vacant. The order dated 26/04/2010 were passed in respect of total land in joint holding and for the wrong doing of one, others cannot be punished. Hence, the proceedings u/s 81 of DLR Act on the portion of appellant, which is in her control and lying vacant and no construction has been done, is hereby dropped with the directions to revenue staff for making entry into the revenue record regarding the portion relates to appellant. The remaining share of the other Co-sharer stands vested as even in the latest report violation is reported.

Announced in open court on 07-02-2014.



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- Copy to:
1. The Tehsildar (Vasant Vihar), Sub-Division Vasant Vihar, New Delhi.
 2. Applicant and Respondents.
 3. Programmer, New Delhi District for uploading the order on the website.

(ALOK SHARMA)
SDM/RA (VASANT VIHAR)

ALOK SHARMA
SDM, Vasant Vihar
Old Terminal Tax Building,
Khasra No. 37