



IN THE COURT OF REVENUE ASSISTANT / SUB-DIVISIONAL MAGISTRATE (MEHRAULI)
REVENUE DEPARTMENT : DISTRICT – SOUTH : GOVT. OF NCT OF DELHI
OLD TEHSIL BUILDING : MEHRAULI : NEW DELHI

Case No. 081/RA/HK/2011

011-15
24/8/16

G. S. DERA MANDI VS AMIT MALHOTRA & ORS.

ORDER

This order shall dispose-off the proceedings under section 81 of the Delhi Land Reforms Act, 1954 against the abovementioned respondents, for the agricultural land comprising Khasra Nos. 103/18/2, 19, 22, 23min, 21/2, 20/2, 21/1, 108/2/1, 2/1, 3/1, 1/2, 9/1, 10/1, 2/3 situated in the revenue estate of village Dera Mandi, New Delhi.

The proceedings in the present case were instituted in the year 2011 by the Court of the then Revenue Assistant/SDM (Hauz Khas), GNCTD on the basis of a Halqua Patwari Report dated 04.03.2011 through the then Tehsildar (Hauz Khas) that the land to the extent of 96/581 of the total land measuring (29-01) owned by Shri Amit Malhotra & Mrs. Ritu Malhotra, is being put to non-agricultural use by way of illegal construction. Accordingly LR-48 & Restraintment Order were issued to the concerned. The records show that after due adjudication the suit land was vested with Gaon Sabha vide Orders dated 03.08.2012. Subsequent to the said Vesting Order, six (06) applications under Appendix VI Rule 14 of the Delhi Land Reform Rules, 1954 from different parties namely M/s Angasana Estates (P) Ltd., M/s Marinorma Estates (P) Ltd., Smt. Anita Mann, Shri Sanjay Aggarwal, Shri Rajesh Modi and Shri Amit Malhotra/Ritu Malhotra were received in this Court, on different dates, seeking recall of the ex-parte vesting order dated 03.08.2012. The said applications were taken up for hearing on several dates and finally on 03.08.2016, the same were allowed and the order dated 03/08/2012 was set aside. In the meantime a Halqua Patwari Report was sought on the



present use of the suit land. On 01/08/2016, the Halqua Patwari submitted his report on the present use of the suit land through Naib Tehsildar (Mehrauli). On 12.08.2016, all the applicants/respondents were represented by Shri Balbir Singh Tanwar, Advocate and the Gaon Sabha was represented by Shri V P Yadav, Advocate. The Halqua Patwari report dated 01.08.2016 placed on record for the present use of the suit land was perused by both the counsels. After brief arguments, both the counsels agreed that the matter may be decided on merits.

Before proceeding any further, it is very important to quote here that the initial Halqua Patwari report dated 04.03.2011 reported non-agricultural use of the land to the extent of 96/581 share of the total land measuring (29-01) owned by Shri Amit Malhotra & Mrs. Ritu Malhotra comprising Khasra Nos. **103/18/2, 19, 22, 23min, 21/2, 20/2, 21/1, 108/2/1, 2/1, 3/1, 1/2, 9/1, 10/1, 2/3**. Accordingly, the LR-48 in the present case was also issued to the Owner of the Property residing at 19, Pusa Road, New Delhi, which as per the records was the address of the Shri Amit Malhotra & Mrs. Ritu Malhotra. The records available before me show that initially the land comprising Khasra Nos. **103/18/2, 19, 22, 23min, 21/2, 20/2, 21/1, 108/2/1, 2/1, 3/1, 1/2, 9/1, 10/1, 2/3** total measuring (29-01) were owned by M/s Ahuja Holding Private Ltd. Subsequently, the said land was sold in to different parties and finally, the total land stood recorded in the name of following parties as per their respective shares :-

	<u>Name of the Recorded Owner</u>	<u>Share</u>	<u>Land Measure</u>
a).	Shri Amit Malhotra & Smt. Ritu Malhotra	96/581	(04-16)
b).	Shri Rajesh Modi	74/581	(03-14)
c).	Shri Sanjay Aggarwal	92/581	(04-12)
d).	Smt. Anita Mann	114/581	(05-14)
e).	M/s Marinorma Estates (P) Ltd.	96/581	(04-16)
f).	M/s Angasana Estates (P) Ltd.	109/581	(05-09)




While disposing-off the matter vide Order dated 03.08.2012, the then **Ld. RA/SDM** erred in vesting the complete land comprising the above detailed Khasra nos., despite the fact that the proceedings were never initiated against the whole land but only in respect of the share/ownership of Shri Amit Malhotra & Mrs. Ritu Malhotra. This is an error which is apparently clear on the face of the records, hence, needs to be corrected. Hence the said order is corrected under Rule 53 of DLR Rules 1954 read with para 14 of Appendix VI of the said Rules to the extent that the said order would be effective only to the 96/581 share of the total land measuring (29-01) comprising Khasra Nos. **103/18/2, 19, 22, 23min, 21/2, 20/2, 21/1, 108/2/1, 2/1, 3/1, 1/2, 9/1, 10/1, 2/3** i.e. against the ownership of the Shri Amit Malhotra & Smt. Ritu Malhotra. Thus, henceforth, the use of the term 'suit land' shall be restricted to only the ownership of Shri Amit Malhotra & Smt. Ritu Malhotra.

Now, coming back to the share of Shri Amit Malhotra & Smt. Ritu Malhotra, the case records clearly show that the Vesting Order dated 03.08.2012 was an ex-parte order and was passed without considering the contentions of the respondents, as such, which is available on record. Hence, in view of the provisions of Appendix VI para 14 of Delhi Land Reform Rules, 1954 and principles of natural justice viz. audi alteram partem, fresh consideration was given to the contentions of the party. The respondent party in their detailed reply has contended that the proceedings initiated u/s 81 of the DLR Act, 1954 in the year 2011 were barred by limitation, as the illegal construction reported by the Halqua Patwari has been existent since last more than 10 years. It has also been contended that the suit land comprises of a dwelling unit and besides rest of the land is being used for agricultural purposes.

I, have considered all the material placed on record. The Halqua Patwari Report dated 01.08.2016 on the present use of the suit land states that the suit land measuring (04-16) comprises of a kothi/dwelling unit at (00-06) of land and rest of the suit land is being used for agricultural purposes or purposes related to agriculture. The respondents have failed to present/adduce any evidence w.r.t. their claim of limitation, hence, the said contention is hereby rejected, as lacking evidence. However, the

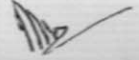


construction of a Kothi/Dwelling Unit is considered to be an improvement and as such permissible under the provisions of Section 3 (12) of the Delhi Land Reforms Act, 1954, to the extent that it does not change the basic agricultural character of the holding.

In view of the above discussed and the material placed before me, I, am satisfied that the suit land is being used by respondents for the purposes in consonance with the provisions of the Delhi Land Reforms Act, 1954 and the predominant use of the suit land is still agriculture. Hence, the proceedings u/s 81 of the DLR Act, 1954 in respect of the suit land do not sustain and are therefore dropped.

Let a copy of this order be sent to all concerned.

Given under my hand and seal of this court on this 24th August, 2016.



(D. S. VERMA)

REVENUE ASSISTANT / SDM

MEHRAULI SUB-DIVISION : DISTRICT SOUTH

Copy to :-

1. The B.D.O. (South), GNCTD, M. B. Road, Saket, New Delhi.
2. The Tehsildar (Mehrauli), GNCTD, with the directions to get the revenue records updated accordingly and revert back all entries made in favour of G.S. subsequent to order dated 03/08/2012
3. All Applicants/Respondents through Shri Balbir Singh Tanwar, Advocate, Chamber No. 73, District Court – Saket, New Delhi – 110 017.
4. The Halqua Patwari (Village – Dera Mandi), for records.
- ✓ 5. The Programmer O/o District Magistrate (South), GNCTD, with the direction to upload the present order on the official site of the department.