

**IN THE COURT OF DEPUTY COMMISSIONER/ COLLECTOR (WEST)
OLD MIDDLE SCHOOL BUILDING, RAMPURA,
LAWRENCE RAOD, DELHI – 110 035.**

APPEAL NO. 419/DCW/2016/7-12

Dt - 02/01/2017

In the matter of:

**Smt. Veena Kumari & Ors
TikriKalan (Appellants)
(Respondents)**

Vs

Gaon Sabha

ORDER

This order shall dispose of an appeal filed u/s 185 of the Delhi Land Reforms Act 1954 against the order dated 19.07.2016 of RA/SDM (PB) in the case no. 72/RA/SDM/PB/1997 titled “ G.S. Tikri Kalan Vs Ashok Kumar & Veena Kumari”, whereby the Revenue Assistant (Punjabi Bagh) had rejected the application under Appendix VI Rule 14 of the DLR Act.

An application u/s 5 of the Limitation Act has been filed seeking condonation of delay. The same is allowed on the grounds cited in the application. Brief facts of the case are as under-

1. Appellants herein were the recorded owners of the land under dispute.
2. An ex-parte order dated 08.07.2004 was passed by RA/SDM (PB) whereby the land comprised in Khasra Nos. 40/14 min (0-3), 40/17 min (0-7), 24/1 min (0-4), 40/18 min (1-9), total 2 bigha 3 biswa, alongwith other Khasra Nos. in the revenue estate of Tikri Kalan, Delhi was vested in the Gaon Sabha, Mundka u/s 81 of the DLR Act.
3. An application under Appendix VI Rule 14 of the DLR Act was filed before the RA/SDM (PB) on 30.11.2015 for rehearing of the ex-parte order. The application was rejected on the ground that notice of proceedings was served to the appellant herein through the labour working in his/her field as is evident from order sheet.

Respondent Gaon Sabha, in its reply to the appeal, has stated that possession of land in question has already been handed over by SDM to the Gaon Sabha on “as is where is basis” and thus, the Gaon Sabha has become the owner of the land in question

During the proceeding by the RA/SDM(PB), a land status report was called from Tehsildar (Punjabi Bagh) dated 29.03.2016 indicating the present status of

the land in question, certified copies of which is placed on records. According to the said report dated 29.03.2016, land in Khasra Nos. 40//18 min (1-9), 40//14 min (0-3), 40//17 min (0-7), 24//1 min (0-4) total 2 bigha 3 biswa in the revenue estate of Tikri Kalan, Delhi are under agricultural use. The counsel for respondent has not disputed this report.

I have given my thoughtful consideration to the documents placed on record; status reports of land in question furnished by the revenue authorities, and the submissions of the counsels. Before proceeding further, it would be desirable to examine Para 14 of Appendix VI.

Para 14 of Appendix VI of Delhi Land Reforms Act, 1954 reads as under :

"14. No appeal from orders passed ex-parte or by default. Rehearing on proof of good cause for non-appearance- No appeal shall lie from an order passed under paragraph 13 ex-parte or by default.

By in all such cases, if the party against whom judgment has been given appears either in person or by agent (if a plaintiff, within 15 days from the date of such order, and if a defendant within 15 days after such order has been communicated to him, or after any process for enforcing the judgment has been executed or at any earlier period), and shows good cause for his non-appearance, and satisfies the officer making the order that there has been a failure of justice, such officer may, upon such terms as to costs or otherwise as he thinks proper, revive the case and alter or rescind the order according to the justice of the case.

Provided that no such order shall be reversed or altered without previously summoning the party in whose favour judgment has been given to appear and he heard in support of it."

I see no reason as to how the application of seeking rehearing of the ex-parte order was not maintainable under Para 14 of Appendix VI of Delhi Land Reforms Act, 1954. When a person alleges that he was not served, it is not a case of showing good cause for non-appearance on the date fixed for hearing in strict sense of the letter of law, for the reason a person who is not served would have no occasion at all to appear at the hearing. Record of the Revenue Assistant shows

that appellant herein was served notices through a labour working in the field. There is no record to show that the labour passed on the notice to the appellant. There appears to be no reason as to why the appellant would not take notice and attend the proceedings before the RA/SDM u/s 81 of DLR Act if he/she was aware of the same. Record clearly shows that only a perfunctory attempt was made to serve the appellant in the manner described above.

In view of the above discussion, I have no hesitation in remanding the case back to the RA/SDM (PB). He is directed to hear the case on merit after serving notices to the concerned parties. No order as to the cost.

Given under my hand and seal of this court on 30th December, 2016.



(Azimul Haque)
Deputy Commissioner/
Collector
District West

Copy to:-

1. Divisional commissioner, 5 Sham Nath Marg, Delhi
2. ADM(West)
3. SDM/RA (Punjabi Bagh)
4. Both the parties
5. Asstt. Programmer (West)