

ASST. Magistrate
Kapurthala

**IN THE COURT OF REVENUE ASSISTANT/SUB DIVISIONAL MAGISTRATE
(DWARKA), DISTRICT SOUTH WEST
SECTOR-10, DWARKA, NEW DELHI**

No. F. /SDM/DW/2018/ 47152

Dated: 21-1-18

Case no. 177/2018

Sumit Nanda

Vs

Gram Sabha Nangli Sakrawati

ORDER

This order shall dispose of the proceedings initiated in respect of the land in question bearing khasra no. 34/4 (4-16) of village Nangli Sakrawati, Sub-Division Dwarka, South-West District, on the basis of an application dated 29.12.2017 (reminder application dated 17.09.2018) U/s 82(2) read with section 150 (3) (f) of DLR Act, 1954 by Sh. Sumit Nanda in pursuance of the directions of Hon'ble Financial Commissioner vide its order dated 27.07.2017 in revision petition no. 126/2017 (Sumit Nanda Vs Gram Sabha).

o/c

The present matter had its genesis way back in 1974 when an ejectment Order U/s 81 of DLR Act, 1954 was passed by SDM/RA, Daryaganj on 07.09.1974 in case no. 199/74 (Chandgi Ram Vs Gaon Sabha Nangli Sakrawati) in respect of kh.no. 34//4(4-16) of village Nangli Sakrawati, and subsequent Order dated 24.09.1979 in respect of kh.no. 34//4(4-16) of village Nangli Sakrawati, was passed by Addl. Collector, Delhi in appeal no. 79/Addl. Collector in the matter of Chandgi Ram Vs Gram Sabha Nangli Sakrawati and thereby upheld the order dated 07.09.1974.

Further, an Order dated 07.07.2006 was passed by SDM/RA Najafgarh in case no. 23/87 in the matter G.S. Nangli Sakrawati Vs Sukhdev(through LR Sumit Nanda S/o S.K. Nanda) in respect of Kh. No. 34//4(4-16) and thereby allowing appeal under appendix 6 rule 14 of Delhi Land Reform Rules and set aside the Order dated 07.09.1974 and divested the suit land in favour of the applicant.



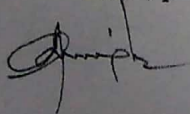
Further, an Order dated 21.09.2015 was passed by Deputy Commissioner/Collector (South-West) in appeal no. 106/6 in matter of G.S. Nangli Sakrawati Vs Sukhdev(through LR Sumit Nanda S/o S.K. Nanda) and thereby setting aside the Order of SDM/RA dated 07.07.2006 and directed the SDM/RA Dwarka and BDO(SW) to take possession of the suit land.

Further, an Order dated 27.07.2017 was passed by Hon'ble Financial Commissioner, Delhi in revision petition no. 126/17 in matter of Sumit Nanda Vs G.S. Nangli Sakrawati and thereby remanding the case back to SDM/RA with direction to proceed further treating order dated 07.09.1974 as Conditional. It has been further ordered that *"I have heard the detailed arguments of parties and have perused the material on record. In view of above discussions, I am of the opinion that original order dated 07.09.1974 passed by the then SDM/RA was a conditional order and had never been made absolute. The order of the then Addl. Collector dated 24.09.1979 of SDM/RA as a final order, which is violative of Secion 82(2) of the DLR Act."*

Further, an Order dated 28.09.2018 was passed by ADM (SW) and thereby dismissing the appeal of Smt. Ratni Devi w/o Late Sh. Sukhdev & Ors. against mutation entries in the O-4 Register with respect to land Khasra no. 34/4(4-16), Village Nangli Sakrawati, New Delhi,

After institution of case no. 177/2018 in the instant matter, notices were issued to both the parties. Gram Sabha Nangli Sakrawati did not attend any of the proceeding and therefore, the court proceeded ex-parte.

During the course of argument, Ld. Counsel for the petitioner submitted a copy of judgment dated 05.04.2016 passed by the Hon'ble Supreme Court in SLP no. 16106/2012 titled as Gaon Sabha & Anr. Vs Smt. Indu Khurana & Anr, the copy of judgment dated 26.03.2010 passed by the Hon'ble High Court of Delhi in W.P. (C) 4143/2003 titled Smt. Indu Khurana Vs Gaon Sabha & Ors. and pleaded that once rural area is urbanized by issuance of notification U/s 507 of the DMC Act, 1957, provisions of DLR Act, 1954 will ceased to apply. An appeal against the said



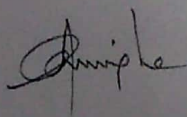
judgment was preferred before the Hon'ble Apex Court vide SLP No. 16106/2012 which was dismissed by the honorable Apex Court holding that it doesn't have merits and thus the issue decided by Hon'ble High Court of Delhi achieved finality. He further pleaded that since the village is urbanized on 16.05.2017 and therefore, proceeding U/s 81 of DLR Act, 1954 in respect of suit land, started to be being heard on the basis of court order after this date needs to be dropped as the proceeding is not maintainable now under DLR Act in the light of above judgment.

He further submitted Order no. 467 Dated 12.03.2018 of the court of RA/SDM, Vasant Vihar, of case no.302/RA/96(Gram Sabha Mahipalpur Vs Azad Singh), Order no. 33-38 Dated 29.08.2016 of the court of RA/SDM, Mehrauli, of Case no. 592/RA/Mehrauli/2015 and Order no. 30523 Dated 02.06.2017 of the court of RA/SDM, Kapashera, of the case no. 72/RA/2009 (Gaon Sabha Bamnoli Vs Jagir Singh) wherein proceedings initiated U/s 81 of DLR Act, 1954, were dropped on similar ground of non-applicability of the provisions of DLR Act after urbanization of rural areas in the light of judgment of Hon'ble High Court of Delhi in the matter of W.P. (C) 4143/2003 titled Smt. Indu Khurana Vs Gaon Sabha & Ors.

Further, during the course of hearing a field status report of Kh.no. 34//4 was called from Halka Patwari. In his report patwari has stated that the land is being used for agriculture purpose. As per the statement of witness, recorded by Halka Patwari, the land is being used for agriculture purpose since last many years.

In view of above, I, Arun Kumar Jha, RA, Dwarka, without going into the merits of the case, is of the considered view that since village Nangli Sakrawati was urbanized in 2017, the provisions of DLR Act, 1954 have ceased to have affect on the suit land and hence, the instant proceeding under DLR Act, 1954, is hereby dropped owing to the fact that this court does not have the jurisdiction.

Further, to avoid any sudden complications and to protect the interest of litigant parties, it is hereby ordered that the status-quo in respect of Kh.no. 34//4

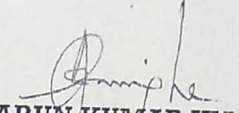


of village Nangli Sakrawati shall be maintained for a period of 01 month from the date of issuance of this order. In the meantime, the parties concerned are free to seek relief from the court of competent jurisdiction.

File be consigned to record room.

Given under my hand and seal on this 3rd day of Dec. 2018.




(ARUN KUMAR JHA)
RA/SDM (DWARKA)

ARUN KUMAR JHA
Sub Divisional Magistrate
(Dwarka)
Govt. of NCT of Delhi

Copy to: -

1. District Magistrate/District Collector, Kapashera, New Delhi for information.
2. ADM(SW), Kapashera, New Delhi for information.
3. BDO(SW), for information and necessary action.
4. Tehsildar (Dwarka) for information and necessary action.
5. Asst. programmer (South-West) to upload it on the official website.
6. Parties concerned.
7. Case file.