

THE COURT OF THE FINANCIAL COMMISSIONER, DELHI

Case No. 163/2014
In Case No. 02/2010

**Revision Petition under Section
187 of Delhi Land Reforms Act,
1954**

In the matter of:-

- 1. Baba Hari Dass Lok Sewa (Regd.)
Jharoda Kalan, New Delhi
Through its Priest,
Sh. Partap Singh S/o Shri Devi Singh,
Baba Hari Dass Lok Sewa (Regd.)
Jharoda Kalan, New Delhi.Petitioner**
- (Represented by Sh. R.K. Sharma, Adv.)**

Versus

- 1. Shri Kishan, S/o Shri Jage Ram
R/o Vill. & P.O. Jharoda Kalan,
New Delhi.Respondents**
- (Represented by Sh. K.K. Sharma Adv.)**

S. S. YADAV, FINANCIAL COMMISSIONER

Order dated 17th February, 2017

1. This order shall dispose of the revision petition filed under Section 187 of Delhi Land Reforms Act, 1954 against order dated 20.9.2007 passed by Dy. Commissioner, South West, Delhi. The original revision petition bearing no. 02/2010 which was filed on 07.1.2010; dismissed for want of prosecution by Ld. Predecessor of this Court vide order dated 21.8.2014. Petitioner however moved an application for restoration of the same. The petition was restored vide this court order dated 26.9.2014, and the revision petition is renumbered as 163/2014.
2. The facts of the case as stated by petitioner is that respondent i.e. Sh. Kishan S/o Jage Ram, R/o Village Jharoda Kalan, Delhi had filed a suit under Section 84 of Delhi Land Reforms Act, 1954 before SDM/RA for ejection of petitioner in respect of kh. No. 94/19/2(1-16) and 94/20(2-3) of village Jharodha Kalan, Delhi on the ground that petitioner

(respondent herein) was sowing the suit land continuously since its allotment under 20 Point Programme. The said petition was decided in favour of respondent herein vide SDM/RA order dated 03.07.2002. Against the order dated 03.07.2002, petitioner filed appeal before Dy. Commissioner, however, Dy. Commissioner South West vide order dated 20.9.2007 dismissed the appeal and upheld the order of SDM/RA. Hence, petitioner filed present petition on the grounds *inter alia* that impugned order is contrary to law and facts of the case as Dy. Commissioner has mechanically passed this order. The petitioner further stated that the land in question was allotted to Sh. Kishne S/o Sh. Jage, whereas the name of petitioner is Sh. Kishan S/o Jage.

3. It is also contended by petitioner that the Dy. Commissioner erred in holding that suit land was allotted to respondent as respondent was not eligible for allotment of land under 20 Point Programme as he was working as Driver in Delhi Transport Corporation (DTC), Delhi and possessed of sufficient means which rendered the respondent to be non-entitled. The petitioner further stated that the respondent had throughout misrepresented himself to be one of the allottees and in possession of suit land whereas, physical possession of the subject land has remained throughout with the petitioner. The petitioner asserted that Dy. Commissioner has erred in law by up- holding the orders of SDM/RA and contended that impugned order is passed on conjectures and surmises.
4. Hence, by present revision petition, petitioner prayed that impugned order be quashed and set aside and the case be remanded back to SDM/RA for proper adjudication.
5. Respondent in his reply has stated that the subject land was allotted to him under 20 point programmes in the year 1971 on a lease of 5 years which was further continued in the year 1976. Thereafter, the respondent was declared bhumidhar in the year 1984 for the subject land. However some unscrupulous persons of the village encroached upon the land

of answering respondent by erecting a boundary wall. However, SDM/RA vide order dated 29.2.1996 issued ejectment orders against the name of petitioner i.e. Baba Hari Dass Lok Sewa Mandal(Regd.). The petitioner and other aggrieved person filed appeal which was dismissed on 23.12.1999. Against the order dated 23.12.1999 they filed petition before Financial Commissioner, however the same was also dismissed vide order dated 8.5.2000. Thereafter pursuant to a petition under Section 84 filed by respondent, SDM/RA vide order dated 3.7.2002 ordered ejectment of Baba Hari Dass Lok Sewa Mandal. The petitioner thereafter filed an appeal before Dy. Commissioner, against the order dated 3.7.2002 of SDM/RA. Since, no effective hearing took place therefore respondent filed a Writ Petition(Civil) before Hon'ble High Court of Delhi and High Court vide its order dated 11.10.2006 in Writ Petition No. 17139/2004 had directed to decide the appeal pending before Dy. Commissioner within 06 weeks from the date of order. Thereafter, the appeal was decided in favour of answering respondent and respondent was put in possession of the subject land by revenue authorities on 10.8.2009. Since then respondent as claimed is in actual and cultivatory possession thereof. As regard the contention of petitioner that respondent was not entitled for allotment under 20 Point Programme as he was employed with Delhi Transport Corporation (DTC), the answering respondent opposed the same by stating that at the time of allotment of land under 20 point programme, the respondent was unemployed and the respondent got employment in DTC as Driver in the year 1981, whereas the allotment was made in the year 1971. As regards the contention of petitioner that land was allotted to Sh. Kishane S/o Sh. Jage and not Sh. Kishan S/o Jage, it is stated by respondent that name of respondent Sh. Kishan S/o Jage was written as Sh. Kishane S/o Jage mistakenly, which was later rectified by the order of SDM/RA dated 12.09.1988.

6. The respondent also contended that petitioner remained in litigation all throughout and lost everywhere. Now, petitioner just to grab the land of respondent and to harass him filed

petition under Section 187 of Delhi Land Reforms Act, 1954. Respondent further stated that present petitioner has no *locus standi* to file present petition as there is no such society looking after the affairs of Baba Hari Dass Temple, Jharoda Kalan, and further stated that present petition is hit under Order 2 Rule 2 of CPC and also barred by the principles of res-judicata under Section 10 of Code of Civil Procedure, 1908. The respondent also asserted that in the present revision petition, one affidavit alleged to have been signed by Sh. Hari Singh S/o Sh. Inder Raj claiming to be the vice president of Baba Hari Dass Lok Sewa who has expired long ago.

7. Hence, the answering respondent has prayed that present petition be dismissed with costs.
8. I have heard the arguments of parties and have perused the material on record. Perusal of record clearly indicates that petitioner approached this court in a casual manner as the original petition was instituted on 07.1.2010 and dismissed for want of prosecution on 21.8.2014. It is also clear from the record of this court that since the inception of the petition no effective hearing took place and only adjournments were sought on the one pretext or other. Even after restoration of the petition, either proxy counsel appeared on behalf of petitioner or adjournment was sought by petitioner's side.
9. As regards the merits of the case, it is evident from the record that there were a series of litigation between the same parties at different fora. The respondent herein had been allotted the subject land under 20 point programme and respondent was declared bhumidhar of the suit land in the year 1984 by the then SDM/RA, and the ejectment order Section 86-A of Delhi Land Reforms Act 1954 was issued in the year 1996. The ejectment order of SDM/RA was modified by then Collector(South West) vide order dated 23.12.1999, with a direction to the respondent to file a case under Section 84 of Delhi Land Reforms Act, as ejectment proceedings under Section 86A can only be initiated in respect of Gaon

Sabha land. Pursuant to order of Collector South West, respondent herein filed a suit under Section 84 of Delhi Land Reforms Act, 1954 before SDM/RA, which was decided in favour of respondent. Against the said order petitioner filed appeal before Dy. Commissioner which was however dismissed vide impugned order dated 20.9.2007. The contention of petitioner that respondent was not eligible for allotment of land under 20 point programmes as he was working as Driver in Delhi Transport Corporation (DTC), Delhi and possessed of sufficient means which rendered the respondent to be non-entitled. It is categorically held by Dy. Commissioner in his order dated 20.9.2007 that -

"I have heard the arguments put forth by both the parties. I have gone through the judgment of predecessor of this court and Financial Commissioner. The written submission filed and the lower courts records have also been perused. After perusing the record it is clear that the suit land was allotted to Sh. Kishne S/o Jage by the Gram Panchayat through resolution of 1971 under the 20 point programme. The name of respondent Sh. Kishan S/o Jage was written as Sh. Kishane S/o Jage mistakenly, which was later rectified by the order of RA/SDM (Punjabi Bagh) dated 12.09.1988. Moreover the enquiry conducted by the then Deputy Commissioner, on the direction of the Hon'ble High Court of Delhi in compliance of Civil Writ Petition No. 2341/1981, submitted the list of allottee in village Jharodha Kalan, and in this list the respondent was found eligible for allotment. It is confirmed after going into the record submitted by both the parties that the appellant illegally occupied the suit land which was allotted to him under the 20 point programme."

10. In my considered opinion, the petitioner herein has raised mainly two issues:-
 - (i) That respondent was not eligible for allotment of land under 20 Point Programme as he was working as Driver in Delhi Transport Corporation (DTC), Delhi and possessed of sufficient means which rendered the respondent to be non-entitled.

(ii) That the land in question was allotted to Sh. Kishne S/o Sh. Jage, whereas the name of petitioner is Sh. Kishan S/o Jage.

11. As regards the contention (i), it is clearly mentioned in the order impugned here that at the time of allotment in the year 1971, the respondent was unemployed as he was employed by the Delhi Transport Corporation (DTC) only in the year 1984. As regards the contention (ii), Dy. Commissioner in his order has categorically mentioned that the name of respondent Sh. Kishan S/o Jage was written as Sh. Kishane S/o Jage mistakely, which was later rectified by the order of RA/SDM (Punjabi Bagh) dated 12.09.1988.
12. Therefore, petitioner failed to substantiate his point and I see no force in the contention of the petitioner. In view of the observations made hereinabove, the present petition is dismissed being devoid of any merit. No order as to costs.
13. Announced in the open court on 17th February, 2017.

(S. S. YADAV)
FINANCIAL COMMISSIONER
Dated 17th February, 2017