

IN THE COURT OF THE FINANCIAL COMMISSIONER, DELHI

Case No.10/2013

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

In the matter of:-

- 1. St. Mary's Educational Society
St. Mary's Convent
Ibrahimpur Village
Near Jeevan Jyoti Ashram
Burari
New Delhi-110011**

**....Petitioner
(Represented by Shri
Puneet Aggarwal with N.A.
Sebastain, Counsels for
Petitioner)**

VERSUS

- 1. Sub Divisional Magistrate/R.A
Alipur
MPCC Building
Naya Bazar
Delhi**
- 2. Gaon Sabha Ibrahimpur
Through BDO(Hq)
O/o Director Panchayat
Tis Hazari Court
Delhi**

.... Respondents

**(Represented by Shri S.K. Suryan
Counsel for R-2,)**

JITENDRA NARAIN, FINANCIAL COMMISSIONER

Dated, 1st March, 2016

- 1. Brief history:-** the present revision petition filed under section 187 of Delhi Land Reforms Act, 1954 against impugned orders dated 04.08.2012, 24.11.2012, 31.12.2012 & 04.01.2013 passed by Revenue Assistant Alipur, Delhi vide which the land of the petitioner was vested in Gaon Sabha and Warrant of Possession was issued and simultaneously the application filed by petitioner under appendix VI rule 14 of DLR Rules was rejected.
- 2. The petitioner states:-** the case of the petitioner is that the petitioner had purchased land measuring around 8 acres in village Ibrahimpur from its original owners through various registered sale

deeds executed in January-February, 2002. Presently the petitioner claims ownership and actual physical possession there of around 8 acres of agricultural land falling in kh. No. 804(4-16), 805(3-11), 803/1(2-4) total measuring (10-11) situated within the revenue estate of village Ibrahimpur, Burari, Delhi.

3. It is stated by the petitioner that at the time of the purchase of the land in question there were two building structures out of which one was being used as residential house and the second one as godown for storage of cement and building materials by the original owners from whom the land was purchased in the year 2002. The total area on which the above structures stood comes to less than 500 sq. mtrs out of total of Approx 32,750 sq. mtrs. and the petitioner used the residential house existing at the site as a convent for the nuns.
4. It is further stated by the petitioner that the petitioner was cultivating the entire stretch of 8 acres of land with wheat, rice, vegetables etc. since the purchase of the same from the original owner. However it is contended by the petitioner that the area was being frequented by wild Neelgais which had been causing heavy damage to the crops. The petitioner, therefore, started constructing a 4ft high boundary wall in the premises.
5. It is further stated by the petitioner that in the year 2009 the then Sub-Divisional-Magistrate/RA initiated proceedings against the petitioner under Section 81 of the Delhi Land Reforms Act, 1954. However, the same was dropped vide SDM/RA order dated 24.3.2009. Against the said dropping order, the respondent No.2 i.e. Gaon Sabha Ibrahimpur had filed an appeal before Dy. Commissioner under section 185 of the DLR Act against the order dated 24.03.09 vide which the proceedings u/s 81 was dropped and the said case is still pending before the Deputy Commissioner. It is also stated by petitioner that since respondent no. 2 has not sought any stay of the orders dated 24.03.09 hence the petitioners have been given protection for the construction of the boundary wall vide order dated 24.03.09.
6. It is also stated by petitioner that in the year 2012 a fresh conditional order u/s 81 was issued on 04.08.2012 and thereafter land was finally vested in the Gaon Sabha vide order dated 24.11.2012. After order dated 24.11.2012 the petitioner filed an

application under Appendix VI Rule 14 of DLR Rules 1954 on the ground that no notice was received by the petitioner before the order dated 04.08.12 and 24.11.12. During the pendency of said application respondent no. 2 i.e. Gaon Sabha filed an execution petition and despite the pendency of the petitioner's application under Appendix VI Rule 14 of DLR Rules 1954 seeking setting aside the order dated 04.08.12 and 24.11.12, the SDM/RA issued a Warrant of Possession against the petitioner on 31.12.12.

7. It is further stated by the petitioner that after the order dated 31.12.2012, the Respondent no.1 i.e. SDM/RA decided the application under Appendix VI Rule 14 of the DLR Act on 04.01.13 and held that the plea that the petitioner was not aware of the proceedings as incorrect, on the ground that police had also filed one DD entry/FIR in which one Sh. N.V. John was arrested.
8. It is further contended by the petitioner that on 05.1.13 they had filed an application before R-1 seeking some time to seek legal remedies. However, despite this R-1 on 05.01.13 came to the premises of petitioner and demolished the old building and the boundary wall. The permission for construction of boundary wall was obtained in 2009 from SDM/RA. Hence, by present revision petition the petitioner seek relief from the impugned order dated 04.08.2012, 24.11.2012, 31.12.2012 & 04.01.2013 on the ground that no notice was issued to them prior to the passing of order dated 4.8.12 and 24.11.12. It is also contended by the petitioner that no notice was issued to them in the execution petition filed by respondent no. 2.
9. **Respondents:-**No reply has been filed by respondent no.1. Respondent no. 2 i.e. Gaon Sabha Ibrahimpur in their reply has contended that the present revision petition is not maintainable neither on the facts nor on the law as the petitioner failed to show any illegality or irregularity in the impugned order. It was stated by the Gaon Sabha that the total area of the suit land is 10 bigha and 11 bishwa and not 8 acres as claimed by petitioner. It is further contended by the Gaon Sabha that present revision petition is not filed by a competent/authorized person and it is without locus. It is also stated by Gaon Sabha that since the possession of land in question has already been handed over to the respondent department the case is *infructuous*. Gaon Sabha in their reply has

also challenged the claim of petitioner that the land in question is being used for agricultural purpose. It was also contended by Gaon Sabha in their reply that no permission for construction of Boundary Wall as claimed by petitioner was ever obtained from the department/competent authority. The Gaon Sabha also stated that the conditional order was pasted at the site on 6.08.12 and it was wrong to say that the petitioner was not aware of the proceedings at all because one Sh. John was arrested from the site who was responsible for un-authorized construction and FIR were registered which clearly shows that the petitioner was aware of the proceedings and he deliberately did not appear in the proceedings before the SDM/RA.

10. I have heard the arguments of both the parties and perused the materials placed on record. The petitioner have challenged four orders. It is a case of the petitioner that they were not duly served but the report at the back page of page 19 of the order sheet dated 21.12.2012 clearly shows that the petitioner had knowledge of the proceedings. Further, in view of the DD entry, FIR and arrest of one Sh. John, they cannot claim respite on the ground of being unaware. This is not denied that the petitioner is a society which is to run a convent/school but what they purchased was agricultural land and that they have no legal permission for any non-agricultural use as a convent or school or for the boundary wall. Hence, the plea of petitioner that these constructions are for the purpose of ancillary to the agriculture and would be covered under improvement does not hold merits. It is also not disputed by the parties that the appeal is still pending in the court of Dy. Commissioner.
11. In view of the above, I find no reason to interfere with the impugned order of SDM/RA. The appellant have no prejudice because nothing in this order will go/will not be held against them in their appeal which is pending before the Dy. Commissioner where the appellant have due opportunity to present the entire case.
12. Schools and hospitals or non-agricultural activities even for charitable purposes must be done within the due framework of laws. Whether you run a school or hospital or whether you run any public institutions, public service society, you would have to do so with due permission under the relevant laws. No one is allowed to

violate any existing laws under the garb or excuse of being a charitable society.

13. With above observation appeal is disallowed.
14. Announced in open court on 1st March, 2016.

(JITENDRA NARAIN)
FINANCIAL COMMISSIONER, DELHI
Dated 1st March, 2016