

**IN THE COURT OF THE FINANCIAL COMMISSIONER, DELHI**

**Case No. 245/2009**

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

**In the matter of:-**

**Shri Raj Kumar  
S/o Shri M.P. Goel  
R/o BN-12, West Shalimar Bagh,  
New Delhi.**

**....Petitioner**

**(Represented by Shri Akhil  
Sachar, Counsel for  
Petitioner)**

**VERSUS**

**1. Gaon Sabha Shahbad Daulatpur,  
Through B.D.O. Narela  
B.D.O. Office Alipur,  
Delhi.**

**2. Sh. Pankaj Kumar  
Revenue Assistant  
Narela, Delhi.**

**.... Respondents**

**(Represented by Shri Mukesh  
Bhardwaj, Counsel for Gaon  
Sabha)**

**JITENDRA NARAIN, FINANCIAL COMMISSIONER**

Dated, 1<sup>st</sup> March, 2016

- 1. The case history and facts:-**The present petition bearing No. 245/09 has been filed pursuant to Hon'ble High Court of Delhi order dated 17.12.2009 in *LPA No. 346/2004 titled Raj Kumar Vs Financial Commissioner & Ors.* Earlier the revision petition bearing No. 273/2000 filed under section 187 of Delhi Land Reforms Act was dismissed by the predecessor of this court vide order dated 30.10.2000. Against the said order, petitioner preferred Writ Petition No. 835/2001 which was dismissed vide order dated 08.01.2004. Against the order dated 08.01.2004 petitioner filed LPA No. 346/2004. The said LPA was decided on 17.12.2009. Hon'ble High Court vide order dated 17.12.2009 had set aside the order dated 08.01.2004 of WP© No. 835/2001 and order dated 30.10.2000 passed by Financial Commissioner in case No. 273/2000.

2. **The Petitioner:-** case is that SDM/RA on the basis of report of Halka Patwari in case No. *10/RA/90 titled Gaon Sabha Shahabad Daulatpur Vs Jabbar Singh* initiated proceedings u/s 81 of DLR Act in respect of land bearing Khasra No. 15/3/2, 4, 5 & 14 of village Shahabad Daulatpur.
3. It is stated by the petitioner that based on Patwari report, a conditional order was issued on 17.01.1992 directing the respondent to convert back the land into agriculture use. It is however stated by the petitioner that neither in the Halka Patwari report nor in the conditional order dated 17.01.1992 passed by SDM/RA, the area of land in reference was mentioned, hence the said proceedings was in contravention of Rule 21 of the DLR Act. Subsequently vide order dated 28.09.1995, the conditional order was made absolute and the land was vested in Gaon Sabha. In the final order the area of land has been mentioned as 15 bigha 3 biswa.
4. The petitioner stated that he had purchased the land measuring 1 bigha 2 biswa out of Khasra No. 15/5 from Sh. Vinod Chopra vide registered sale deed dated 05.03.1992 and after having NOC from the competent authority. After the sale deed mutation was also sanctioned in favour of petitioner on 16.03.1993. Since then the petitioner claimed to be in possession of land and using the same for agricultural purposes only. It is however contended by the petitioner that revenue assistant in his final order had failed to go through the revenue record as despite the land recorded in petitioners name no notice was ever issued to him prior to passing of final vesting order.
5. The petitioner further stated that since the vesting order was passed ex-parte, the petitioner moved an application under *appendix-VI Rule 14 of Delhi Land Reforms Rules*, however the said application was dismissed by SDM/RA vide order dated 21.08.2000.
6. Hence by present petition, the petitioner prayed to set aside the order dated 17.01.1992 vide which the conditional order was

issued, order dated 28.09.1995 vide which the conditional order was made absolute and land was vested in the Gaon Sabha & order dated 21.08.2000 vide which the application under *appendix-VI Rule 14 of Delhi Land Reforms Rules* was rejected by SDM/RA .

7. **Gaon Sabha**:- in their reply has contended that present revision petition is not maintainable as it is hit by the provisions of 52 of Transfer of Property Act.
8. The Gaon Sabha also contended that suit property was transferred on 05.03.1992 whereas the 81 proceedings was initiated on the basis of Halka Patwari report dated 04.01.1990 regarding the suit land. The present petitioner purchased the suit land during the pendency of 81 proceedings before SDM/RA. Hence it is also hit by *lis-pendens*.
9. It is further contended by Gaon Sabha that during the proceedings u/s 81 the petitioner was not the recorded owner and during the pendency of case u/s 81 the sale deed executed was totally illegal. Counsel for Gaon Sabha also challenged the legality of NOC issued and mutation sanctioned by Tehsildar.
10. It is also contended by the Counsel of Gaon Sabha that the land in question had been used for non-agricultural purposes and pursuant to conditional order dated 17.01.1992, the erstwhile recorded owner Sh. Jabbar Singh did not appear before the RA, hence the conditional order dated 17.01.1992 was made absolute vide order dated 28.09.1995. It is also contended by Gaon Sabha that in the absence of area mentioned in conditional order, the area would be presumed to be the area of the whole of the Khasra No.
11. It is further contended by Gaon Sabha that the application filed under appendix-VI rule 14 filed by petitioner was rightly dismissed vide order dated 21.08.2000. As the petitioner was neither a necessary nor a proper party.
12. I have heard the arguments of both the parties and perused the materials placed on record. It is a admitted case that

petitioner purchased the land through a registered sale deed and after having NOC from Competent Authority. It is also not disputed that petitioner had purchased 1 bigha 2 biswa of land out of Khasra No. 15/5 of village Shahabad Daulatpur. It is also not denied that mutation was sanctioned in the favour of petitioner. It is also not denied that mutation was sanctioned prior to passing of final vesting order dated 28.09.1995. It is also not denied that no notice was issued to the present petitioner.

13. In view of the above observations, the claims of the petitioner seem partly justified to the extent of no notice to the changed recorded owner was given even during the pendency of the case. If the mutation was allowed during the pendency of proceedings u/s 81 then the new recorded owner should have been heard.
14. Hence the present petition is allowed and the impugned orders are set aside, to that extent. The petitioner is hereby directed to appear before SDM/RA within two weeks from the date of this order and state his objections in the case. SDM/RA concerned is hereby directed to dispose off the claim of the petitioner as expeditiously as possible but not later than three months from the date of this order. SDM/RA is free to appropriately inquire why and how such mutation was made without due information to the concerned court during pendency of the *lis*. Nothing said in this order will have any bearing on the case below.
15. With above observation the present petition is disposed off. Announced in open court on 1<sup>st</sup> day of March 2016.

**(JITENDRA NARAIN)**  
**FINANCIAL COMMISSIONER, DELHI**  
Dated 1<sup>st</sup> March, 2016