

Case No.251/2015

01.09.2015

Present : Proxy Counsel for Petitioner.
: Shri S.S. Dalal, Counsel for Respondent G.S.

1. Proxy Counsel for Petitioner requested for pass over.

Case is taken up again at 1.45 P.M.

Present : Sh. Pankaj Vivek, Counsel for Petitioner.
: Sh. S.S. Dalal, Counsel for Respondent G.S.

2. Since D.C. (S-W) vide order dated 22.05.2015 has remanded the case back to the SDM/RA, the Court asks both the Counsels what prejudice is being caused against such order.
3. Counsel for the Petitioner states that at page-24 of the judgement, it is states that "*Strictly speaking, a park or lawn is not an agricultural or related activity. This needs to be properly examined before any decision is taken. This is also important because the photographs attached with the report dated 27.12.2012 clearly convey an impression that the suit land is not being used for agriculture or related purposes.*" Then he files one Supreme Court judgement of Civil Appeal No.351 of 1974 and two High Court judgements (i) WP (C) No.6143/1998 and (ii) CS (OS) 758/2008 on this issue.
4. Counsel for G.S. states that no right of the petitioner is being prejudiced and he has ample opportunity to say whatever he wants to say before the SDM/RA.
5. In view of the above, the case is remanded back to the SDM/RA to decide the case afresh without being influenced by any observation of trial, i.e. DC Court. The case is disposed of accordingly.
6. File be consigned to record room after completion.

**Financial Commissioner,
Delhi**