

IN THE COURT OF THE FINANCIAL COMMISSIONER, DELHI

Case No. 271/12

**Appeal under section 66 of the
Delhi Land Reforms Act, 1954**

In the matter of:-

**1. Sh. Maha Singh
S/o Sh. Bharat Singh
R/o VPO Nangal Thakran
Delhi-110039**

.... Petitioner

**(Represented by Sh. V.P. Rana,
Counsel for the Appellant)**

Versus

**1. Gaon Sabha Nangal Thakran
Through B.D.O
North West Distt
Delhi**

**2. Union of India
Through Seretary (R)
5, Sham Nath Marg, Alipur
Delhi**

..... Respondents

**(Represented by Sh. S.K.
Suryan Counsel for R-1)**

JITENDRA NARAIN, FINANCIAL COMMISSIONER

Order dated 09th February, 2016

1. The present appeal under Section 66 of Delhi Land Revenue Act, 1954 is filed against the impugned order dated 16.05.2012 passed by Dy. Commissioner/Collector(North West) in Appeal no. 203/DC/NW/01/2001, whereby the appeal of the appellant was dismissed on the ground of being time barred.

2.1 The pleadings of both the parties were perused. The case of the petitioner is that his land bearing Kh. No. 10/10(0-18) of village Nangal Thakran was vested with Gaon Sabha under Section 81 of DLR Act vide SDM/RA order dated 26.07.2001. Prior to order dated 26.07.2001, the conditional order was passed on 01.08.2000. It is the contention of the appellant that as per statutory requirement of Rule 21(a) and (b) of Delhi Land Reforms Rules, 1954 no notice was issued/served to appellant..... "The appellant was not having any knowledge of the date of hearing on 26.07.2001 when final order was passed". Against the Order dated 26.07.2001, the appellant filed appeal before Dy. Commissioner/Collector(NW) under Section 64 of Delhi Land Revenue Act, 1954 alongwith an application under Section

5 of Limitation Act, for condonation of delay. However, Dy. Commissioner/Collector(NW) vide impugned order dated 16.05.2012 had dismissed the appeal on the ground of being time barred.

2.2 The present Second appeal is filed mainly on the ground that Ld. Dy. Commissioner/Collector(NW)/First Appellate Court did not examine the Trial Court Record to establish that no notice was issued/served to the appellant before passing of conditional order dated 01.08.2000 as well final vesting order dated 26.07.2001 by SDM/RA. "That the matter came up for hearing before the First Appellate Court on 16.05.2012. It was contended by the appellant through his counsel that as per Lower Court Record, the notice was not actually served and the appellant had no knowledge of the date of hearing for 26.07.2001 when this final order was passed and even the date of hearing i.e. 01.08.2000, when the conditional order was passed".

2.3 The second ground taken by the appellant in the present appeal is that Dy. Commissioner/Collector(NW) had erred in calculation of period of delay while dismissing the appeal and further claimed by appellant that there was a delay of only 65 days and not 101 days as held by Dy. Commissioner/Collector(NW) in the impugned order.

2.4 It is further contended by the appellant in the appeal that provisions of Section 81 of Delhi Land Reforms Act, 1954 were not violated by the appellant.

2.5 Hence, by this appeal the appellant prayed for set aside the impugned order dated 16.05.2012 passed by Dy. Commissioner/Collector(North West) with incorrect observations that"*Lower Court Record perused. On perusal of the lower court record, it is found that the present appellant has appeared before the RA in the proceeding of case no. 81/SDM/N/2000 titled as G.S. Nangal Thakran Vs. Maha Singh.*"

2.6 It is further contended by the appellant that he was not presented before SDM/RA which can be verified by LCR.

3. The Counsel for respondent Gaon Sabha stated that as per Patwari's report dated 29.11.2000, the appellant was using the land in

contravention of provisions of DLR Act. It is further contended by Counsel for Gaon Sabha that the appellant was in appearance before SDM/RA on various dates and was in the full knowledge of the proceedings. The Counsel for Gaon Sabha pointed to the incorrect and false statements of the appellant and said that they deserve no indulgence.

The Lower Court Records clearly showed that he appeared before SDM/RA on 13.07.2000, 01.08.2000 and on 25.01.2001. Therefore the findings of the Lower Appellate Court/Dy. Commissioner/Collector(North West) in the impugned order that appellant was present before RA in the proceeding of Case No. 81/SDM/N/2000 titled as G.S. Nangal Thakran Vs. Maha Singh. This contention of Gaon Sabha is not opposed by the appellant.

4. The arguments of both parties were heard and documents perused. The perusal of LCR reveals that appellant was present before SDM/RA on 13.07.2000 and thereafter on 01.08.2000, when the conditional order was passed. It is specifically mentioned by SDM/RA while passing the conditional order that the land in question is being used for non-agricultural purpose in 18 bishwa of Kh. No. 10/10. Thereafter on 25.01.2001 appellant was again present before SDM/RA. Definitely, it is not the case of the appellant that he had no knowledge of Conditional order dated 01.08.2000, because he was present both on 13.07.2000 and 01.08.2000, and it is also not denied that final order came on 26.07.2001 and it is also not denied that he did not restore the land bearing kh. No. 10/10(0-18) to agricultural use before the final order on 26.07.2001. It was also not denied that he was present on court on 25.01.2001. The delay of 65-101 days what there be are still not explained sufficiently to grant relief.

5. Therefore, I find on perusal of the LCR order-sheet, the findings of Dy. Commissioner/Collector(North West) dated 16.05.2012 are verified and order is correct.

6. The present appeal is dismissed accordingly. Open in announced court on 09th Day of February, 2016.

(JITENDRA NARAIN)
FINANCIAL COMMISSIONER, DELHI
Dated 09th February, 2016