

IN THE COURT OF THE FINANCIAL COMMISSIONER, DELHI

Case No. 34/2012

Revision Petition Under Section 187 of
the Delhi Land Reforms Act, 1954.

In the matter of:-

1. Shri Dharambir
2. Shri Samey Singh
3. Shri Jagbir
4. Shri Rajesh

All sons of late Shri Bhim Singh
VPO Village Chhawla, New Delhi-71

5. Smt. Prem Wati
W/o Late Shri Jai Karan
6. Shri Naresh Kumar
7. Shri Mahesh Kumar
8. Shri Anil Kumar

All sons of late Shri Jai Karan
All r/o Village Chawla, New Delhi

Petitioners

Versus

1. Gaon Sabha, Chhawla through its
Director Panchayat, Tis Hazari Courts
And also service to be affected through B.D.O.
Najafarh, New Delhi.

Respondent

DHARAM PAL, FINANCIAL COMMISSIONER

ORDER dated: 06th January, 2015

1. This order shall dispose of the revision petition filed under section 187 of Delhi Land Reform Act, 1954 (hereinafter referred to as 'DLR Act') filed by the Petitioner against the order dated 14.8.07 of SDM/RA, remanded by Hon'ble High Court of Delhi vide its order dated 2.1.2012 in WP(C) 8554/2009 and CM NO.5592/2009.

2. The brief facts of the case are that Jai Karan and Bhim Singh were the co-owners/co-bhumidhar of the agricultural land bearing Kh.no.36/3 (4-12), 27(0-4) total measuring 4 bighas 16 biswas situated in the revenue estate of village Chhawla, Delhi. Proceedings u/s 81 of the Act were initiated against Jai Karan and Bhim Singh. Petitioners have further submitted that Jai Karan

and Bhim Singh never received any summons or notice by the Hon'ble Court of SDM/RA and aforesaid land was vested in the Gaon Sabha vide order dated 19.2.99 on the basis of the report of Halka Patwari. The petitioners came to know of the said fact only on 22.2.2000 when they visited the office of the B.D.O. and Halka Patwari. Jai Karan and Bhim Singh thereafter moved application under Appendix 6 rule 14 read with section 151 C.P.C. for setting aside the ex-parte impugned order within the prescribed period of 15 days after getting the knowledge. The learned SDM/RA dismissed the said application vide order dated 14.8.2007 on the ground that the application is time barred and also on the merits by giving a finding that the land was used for non agriculture purposes for construction of houses and boundary wall.

3. LRs of Petitioners assailed the said order dated 14.8.07 before Financial Commissioner who vide order dated 30.1.09 dismissed the Revision Petition No.246/2007 and upheld the order dated 14.8.07 of RA/SDM, Delhi Cantt.

4. Petitioner further challenged the said order of Financial Commissioner in Hon'ble High Court of Delhi in WP(C) 8554/2009 and CM NO.5592/2009. Hon'ble High Court vide its order dated 2.1.2012 remanded the case to Financial Commission for passing speaking order.

5. Accordingly, this Court issued notices and heard the matter at length. During the course of hearing a fresh report from SDM (Kapashera) was called regarding use of said land and LCR was also called. SDM (Kapashera) vide letter dated 10.9.2014 submitted a survey report Jointly conducted by the BDO staff and staff of SDM Office, according to which land was being used for agriculture purposes.

6. I have heard the concerned parties at length and gone through the records available on file. Vide order dated 02.01.2012 in WP (C) no. 8554/2009 and CM No. 5592/2009 in the case of Dharamvir & Ors. Vs. Gaon Sabha, Chhawla, Hon'ble High Court vide para 3, 4 & 5 has observed as under:

“3. In view of the aforesaid, Mr. V.K. Tandon, Advocate for the respondent, concedes that this matter is requires a relook by the learned Financial Commissioner, Delhi after going through the records of this case to indicate as to by which mode the petitioners were served before the Revenue Assistant.

4. In view of the stand taken, as aforesaid, the impugned order of 30th January, 2009 is set aside and this matter is remanded back to the learned Financial Commissioner, Delhi with a direction to pass a speaking order after going through the original records and thereafter, if it is found that the petitioners were served, then to indicate as to by which mode they were served.

5. *With aforesaid observations, this petition and pending application stand disposed of, with no order as to costs”*

7. In order to investigate the mode by which the petitioners were served notices by the Revenue Assistant, Lower Court Record of the case were called for vide this Court order dated 28.02.2012. In response to this order, Reader to SDM/RA vide letter no.F.4(102)/SDM(DC)/SW/2012/1161 dated 12.04.2012 informed this Court that the said file was not traceable. In the light of this development, it is difficult for this Court to investigate the mode of service of summons to the petitioner. In my view, justice will be served if the impugned order dated 14.8.2007 of RA/SDM is set aside in the light of the Halqa Patwari report dated 06.09.2014, and the case is remanded back to SDM/RA to decide the case afresh on merits as per law in a time bound manner after affording the opportunity of being heard to the parties concerned. I order accordingly.

8. Pronounced in the open Court.

-SD-

(DHARAM PAL)
Financial Commissioner,
Delhi.
06th January, 2015