

IN THE COURT OF THE FINANCIAL COMMISSIONER, DELHI

Case No.76/13

Revision petition under section 187 of
Delhi Land Reforms ACT, 1954

In the matter of :-

Sh. Om Parkash
S/o Late Sh. Jeet Ram
R/o V.P.O.-Budhanpur Mazra,
Near Bus Stand,
Delhi-110081

...Petitioner

Vs

1. Sh. Satish Kumar
2. Sh. Sunil Kumar
3. Sh. Anil Kumar
All sons of Late Sh. Swarup Singh
4. Sh. Dhani Ram
S/o Late Sh. Jeet Ram
All residents of
V.P.O. Budhanpur Mazra
Near Bus Stand,
Delhi-110081
5. Collector (North-West)
D.C. Office Complex,
At Kanjhawala, Delhi

... Respondents

**REVISION PETITION UNDER SECTION 187 OF DELHI LAND
REFORMS ACT, 1954 AGAINST THE IMPUGNED ORDER DATED
29.11.2012 PASSED BY THE RESPONDENT NO. 5 IN APPEAL NO.
155/DC/NW/2012 TITLED AS SH. SATISH KUMAR AND ORS. VS.
SH. OM PRAKASH WHEREBY THE APPLICATION U/S 5 OF
LIMITATION ACT WAS ALLOWED.**

NAINI JAYASEELAN, FINANCIAL COMMISSIONER

Order dated 29th May, 2015

1. This order shall dispose off the petition filed by the petitioner filed u/s 187 of Delhi Land Reforms Act, 1954 against the impugned Order dated 29/11/2012 by Collector, North West, Kanjhawala, Delhi, whereby Collector condoned the delay of the appellants (respondents herein) to file

appeal against the order of mutation by Tehsildar vide order dt. 21/7/1997 in case No. M-115/Teh./SV/97-98.

2. The brief facts of the case as submitted by the petitioner is as follows:-

(i) That the respondent No. 1 to 4 herein filed an appeal before the respondent no. 5 against the mutation order dated 21.07.1997 passed by the Tehsildar in favour of the petitioner herein. Alongwith the said appeal, the respondent No.1 to 4 had also filed an application U/s 5 of Limitation Act for Condonation of delay in filing the appeal.

(ii) That the petitioner filed the reply to the application U/s 5 of Limitation Act on dated 08.11.2012 wherein, the petitioner contended that the appeal is not maintainable as it is barred by the limitation. The respondent No.5/collector (N-W) vide its impugned Order dated 29.11.2012 allowed the application U/s 5 of Limitation Act thereby condoning the delay of more than 15 years in filing the appeal. Being aggrieved by the impugned order dated 29.11.2012, the present revision petition is being filed on the grounds amongst others:-

(a) That the limitation to file an appeal before the collector against the order of Tehsildar is 30 days under the Delhi Land Reforms Act. Appeal against the order dated 21.07.1997 passed by the Tehsildar in case No. M-115/The/SV/1997-98 was filed by the respondents No1 to 4 in the month of September, 2012 after a long delay of more than 15 years, which was beyond the period of 30 days.

(b) That in the reply to the application U/s 5 of Limitation Act filed by the present petitioner before the Collector, it was stated that the order dated 21.07.1997 was in the knowledge of the respondents No. 1 to 4. It was also mentioned in the reply that in the year 1998 Sh. Swarup Singh, father of the present respondents No. 1 to 4 filed a Civil Suit bearing No. 08/2006 in Tis Hazari Courts, Delhi against the present petitioner, in which it was mentioned that Sh. Swarup Singh and present

respondents No. 1 to 4 had knowledge with respect to the mutation of the land in question in favour of the petitioner. Alongwith the said reply, the petitioner also filed the certified copy of the suit No. 08/2006 filed by the father of the respondents No. 1 to 4, wherein in paras No. 9, 10 and 14, it was revealed that the mutation order dated 21.07.1997 was well within the knowledge of the respondent No. 1 Sh. Satish Kumar and Sh. Swarup Singh, father of the respondent No. 1 to 4.

- (c) That the Collector has failed to exercise the jurisdiction and has not mentioned any reason for allowing the application U/s 5 of Limitation Act in the impugned order whereby he has condoned the delay of more than 15 years.
- (d) That the respondent has made false statement before the Collector, in the application U/s 5 of Limitation Act, that the respondents No. 1 to 4 came to know about the impugned order only on 02.09.2012, because as per certified copies placed on record by the present petitioner, the respondents No. 1 to 4 had knowledge of the impugned order from the date of mutation order. Further there is no discussion in the order on the averments made in the said reply dated 08.11.2012.

3. Respondent has submitted that this Revision Petition has been filed after the delay of 08 days.

4. I have heard both the parties at length and have considered the replies/submissions of both the parties.

5. The main contention of the petitioner in the revision petition is that the lower court of Collector (North West) has neither mentioned any reason for allowing the application U/s 5 of Limitation Act nor has considered the averments made by the petitioner vide his reply dated 08.11.2012, in the impugned order whereby he has condoned the delay of more than 15 years. Therefore in my considered view, the end of justice will be met if the case is remand back to trial court i.e. Collector (North-West) with a direction to afford an opportunity to the petitioner of being heard and thereafter, pass a

well reasoned order. This view of the court is not opposed by the counsel for the respondents.

6. In view of above, the case is hereby remanded back to the Collector (North-West) with the direction to hear afresh the petitioner and thereafter pass a speaking order preferably within 03 months from the date of this order.

7. The matter is disposed of accordingly. No order as to costs. Announced in the open Court.

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(NAINI JAYASEELAN)
FINANCIAL COMMISSIONER, DELHI
29th May, 2015