

Mustafa Vs. S.D.M., Saket & Anr.

20.05.2014

Present: Sh. N.S. Dalal, Counsel for the Petitioner.

1. Ld. Counsel for the petitioner has filed the present revision petition before this court under section 187 of Delhi Land Reforms Act, 1954 with the request "call for the record of the case bearing number 20/RA/Saket/2013 titled "Mustafa V/s Gaon Sabha Satbari", pending before the Ld. SDM/RA., Saket, New Delhi and direct the Ld. SDM/RA to decide the case in accordance with law after framing issues and recording of the evidence".
2. The petition was heard at length today Ld. Counsel informed the court that the aforementioned case is pending before the court of RA/SDM since April, 2013 & till date there have been 10 or 12 dates but on most of the dates the SDM/RA has failed to hold the court. He further informed that on the last date of hearing i.e. on 13/05/2014 his client sought time for filing replication but the SDM/RA without giving an opportunity for filing replication has fixed the case for orders. He fervently pleaded that the RA/SDM by fixing the case for orders has completely failed to comply with the proper process of law as in the said case which happens to be suit, proper procedure as mentioned in Code of Civil Procedure have to be followed. However, the RA/SDM has completely overlooked the process of law in this case as neither the pleadings have been got completed nor the issues have been got framed, also the case has never been fixed for evidence. This being so, the act on the part of SDM/RA is an abuse and misuse of process of law. Ld. Counsel further averred that this court has supervisory jurisdiction under section 187 of Delhi Land Reforms Act, 1954 and requested that lower court record of this case may be called for and directions be issued to the SDM/RA to conduct the proceedings in accordance with the law after framing issues and recording the evidence.
3. Prima-facie the petitioner seems to have come before this court prematurely as no final order has been passed by the lower court and the SDM/RA has simply fixed the case for orders. Further, section 187 Delhi Land Reforms Act, 1954 which reads as "**The**

Chief Commissioner may call for the record of any suit or proceeding referred to in schedule-I decided by any subordinate Court... clearly shows that power of Chief Commissioner to call for the cases is vested only in respect of those cases which have already been decided by any subordinate court and does not apply to pending cases. Thus, intervention at this stage would not be warranted and the court refrains from intervening in the lower court proceedings at this stage and pre-empting the order of the SDM/RA. The petition is dismissed accordingly.

4. File be consigned to record room after completion.



(D.M. Spolia)
Financial Commissioner,
Delhi