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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ W.P.(C) No._____/2024 (To be registered and numbered)

COURT ON ITS OWN MOTION

VERSUS

L&DO, MINISTRY OF
URBAN DEVELOPMENT & ORS.Respondents

Through:

CORAM:

HON'BLE THE ACTING CHIEF JUSTICE

HON'BLE MR. JUSTICE TUSHAR RAO GEDELA

ORDER

04.09.2024

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1. A Report dated 03rd September, 2024 has been placed before me (Justice Manmohan, Acting Chief Justice) by the Delhi State Legal Services Authority (DSLISA).

2. It is pertinent to mention that DSLISA had organized the inauguration ceremony of गूँज: कानूनी सहायता के नए आयाम on 10th August, 2024, focused upon addressing the multifaceted challenges faced by the remote and underdeveloped areas of Delhi, and to uplift them through a comprehensive strategy emphasizing upon legal empowerment, healthcare, education and awareness. Under the Project, every District Legal Services Authority has been tasked to identify and uplift such remote and underdeveloped areas. The Project was launched by DSLISA at Jaunti Village under the jurisdiction of Police Station Kanjhawala in North-West district of Delhi as the first target area.

3. During the interactive session of Hon'ble Mr. Justice Sanjiv Khanna, Judge, Supreme Court of India and Executive Chairman, National Legal

Services Authority and one of us (Justice Manmohan, Acting Chief Justice, High Court of Delhi and Executive Chairperson, DSLSA) with the residents of Jaunti Village, concerns were raised regarding the difficulties faced by the villagers pertaining to mutation in the land records. The residents informed that they wished to get their respective immovable properties, inherited from their ancestors, mutated in their names in the land records as per law. Accordingly, they have applied for mutations of inherited properties with all necessary documents but faced delays despite persistent efforts over the years. The only response they have received from the concerned government agencies is that since the village has been urbanized under Section 507(a) of the Delhi Municipal Corporation Act, 1957 (hereinafter referred to as the 'DMC Act'), the mutation of properties in the land records had been halted by the Government of NCT of Delhi. This applies to several other villages in Delhi also with no alternative mechanism provided for addressing grievances.

4. DSLSA further enquired into the said legal issue raised by the villagers. In this regard, it was informed to DSLSA by North-West District Legal Services Authority that after the aforesaid Mega Service Camp, eight persons had approached the newly inaugurated legal services clinic at Panchayat Ghar of Jaunti village and the office of North-West DLSA stating that despite the names of their ancestors being duly recorded in the land records maintained by the Revenue authorities and despite the respective mutation applications also being accompanied by all relevant documents, the mutation entries cannot be made in the revenue records as the village land had been urbanized by way of Notification No. F7(128)/DLB/2019/000580156/14600-15 dated 28th January, 2019 and the land had been transferred to Municipal agencies.

5. Further deliberation with various government agencies and advocates dealing with revenue cases reveal that this problem has persisted for nearly two decades, affecting many urbanized villages without a clear mutation policy. Further, Section 507(a) of the DMC Act r/w Section 150(3) of the Delhi Land Reforms Act, 1954 (hereinafter referred to as the 'Land Reforms Act') states that pursuant to a notification under the said provisions, Gram Sabha stands dissolved and the land gets vested in the Central Government. Accordingly, the net result of such a Notification is the concerned village/villages ceasing to be a part of 'rural areas' within the meaning of Section 2(52) of the DMC Act and being included in the 'urban areas' as defined in Section 2(61) of the said Act due to which the Revenue Department of Government of NCT of Delhi ceased to maintain land records pertaining to these urbanized areas.

6. Though the non-applicability of the Land Reforms Act to villages post their urbanization is no more *res integra* in view of law laid down by this Court in *Indu Khorana v. Gram Sabha, 2010 SCC OnLine Del 1334* and by the Supreme Court in *Mohinder Singh v. Narain Singh, 2023 SCC OnLine SC 261*, yet there is complete absence of any law/policy/guidelines/rules whereby rights of mutation can be availed by the residents of such villages before the appropriate forum i.e., the concerned subsequent land-holding agency whether it be the Municipal Corporation of Delhi, the Land and Development Office (L&DO) of the Ministry of Housing and Urban Affairs, Government of India or the Delhi Development Authority in case of such lands being notified as 'development areas' under the provisions of Section 12 of the Delhi Development Authority Act, 1957.

7. The absence of a documentation mechanism by land-owning agencies post-urbanization disproportionately affects the urban poor. Lack of formal

property rights evidence prevents access to credit facility for construction and renovation to benefits from government schemes or participation in land pooling policy of the Delhi Government. Such a legal vacuum disabling the villagers from managing their immovable properties *prima facie* violates their fundamental right under Article 21 and constitutional right under Article 300A of the Constitution of India, and accordingly needs to be addressed at the earliest, by the concerned departments/government agencies.

8. Consequently, the Registry is directed to register the present report as a Suo Motu Writ Petition (PIL).

9. Issue notice to (i) the Land & Development Officer, L&DO, Ministry of Urban Development, Nirman Bhawan, New Delhi, (ii) Commissioner, Municipal Corporation of Delhi, (iii) Vice Chairman, Delhi Development Authority, (iv) Secretary (Revenue)/Development Commissioner, Govt. of NCT of Delhi, and (v) Member Secretary, Delhi State Legal Services Authority.

10. Mr.Santosh Kumar Tripathi, standing counsel accepts notice on behalf of Secretary, GNCTD.

11. Issue notice to the unserved, without process fee, through their standing counsel, returnable on 25th October, 2024.

ACTING CHIEF JUSTICE

TUSHAR RAO GEDELA, J

SEPTEMBER 4, 2024
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