

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

Pronounced on: 18 May, 2015

+ **CRL.MC.No.662/2014 & Crl.M.A.No.2203/2014**

SATYA PAL SINGH Petitioner

Through: Mr. Dinesh Kumar, Advocate

Versus

GEETA SINGH ...Respondent

Through: Mr. R.P. Luthra, Advocate

COARM:

HON'BLE MR. JUSTICE SUNIL GAUR

JUDGMENT

1. In proceedings under the *Protection of Women from Domestic Violence Act, 2005* (henceforth referred to as the 'D.V.Act'), petitioner-husband has been directed by the trial court vide order of 20th November, 2013 to vacate premises bearing No. 6-D, Pocket-E, LIG Flats, Dilshad Garden, Delhi. Petitioner had filed a statutory appeal against the aforesaid order, which stands dismissed vide impugned order of 27th November, 2013. Both the courts below have held that there is nothing on record to suggest that petitioner had contributed anything towards the purchase of property in question, which is in the name of respondent-complainant.

2. The relevant facts, as noticed in the impugned order, are as under:-

'It is pertinent to mention that the respondent has already filed a petition for divorce against the appellant herein who is

allegedly committing domestic violence against the respondent herein and is neither contributing financially nor helping the respondent in any way. Trial court record also reveals that on 11/07/13 statement of respondent herein was recorded in presence of both the parties and their counsels and she was directed to produce the original documents of the property adjourning the matter for arguments on interim maintenance on 07/08/13. On that day, matter was adjourned to 27/09/13. As per the order-sheet of 27/09/13, Ld. P.O. was on leave and matter was adjourned to 08/11/13. On that day, adjournment was taken by Ld. Counsel for respondent due to some personal problem and the matter was adjourned to 23/11/13 for arguments on interim maintenance and on that day as per the record Ld. Counsel for the respondent herein and the appellant herein did not appear before the Ld. Trial court due to unknown reasons. Trial court after hearing the submissions has passed the impugned order’.

3. At the hearing, learned counsel for petitioner submitted that merely because respondent-complainant did not press for relief of maintenance, it would not justify petitioner’s eviction from the premises in question because the evidence has not been led by the parties and the impugned direction could be issued only at the time of disposal of the main petition under Section 12 of the *D.V.Act* and that too, after holding that respondent-complainant was subjected to domestic violence. It was vehemently submitted that in the absence of finding of respondent-

complainant being subjected to domestic violence in the impugned order, the impugned direction issued is totally uncalled for. It was further submitted that the basic ingredients of Section 19 of the *D.V.Act* are lacking, as in the absence of finding of domestic violence, direction to petitioner to remove himself from the shared household cannot be passed. Lastly, it was submitted that petitioner has been indicted without any trial, which is against the mandate of the provisions of the *D.V.Act* and so, the impugned orders deserve to be quashed.

4. Learned counsel for respondent supports the impugned order and submits that the averments made in the complaint clearly show that respondent had been subjected to domestic violence and it so stands corroborated from the *Domestic Incident Report*. It was vehemently submitted that respondent is the owner of premises in question, which she had purchased out of her own funds and respondent had not contributed anything for the purchase of the property in question. Thus, it was submitted that there is no illegality or infirmity in the impugned orders.

5. After having heard both the sides and on perusal of impugned orders, complaint in question and the reply filed thereto, I find that the *Domestic Incident Report* submitted by the Probation Officer lends credence to the assertions of respondent of having been subjected to cruelty/domestic violence and there are specific averments in the complaint in question of respondent being subjected to domestic violence. There is nothing on record to suggest that petitioner had contributed anything towards the purchase of property in question, which is in the name of respondent. Pertinently, trial court has noted in its order that

photocopy of the Sale Deed of property in question has been placed on record, which clearly shows that respondent is the owner of this property.

6. In view of the aforesaid, finding no palpable error in the impugned orders, this petition and application are dismissed while refraining to express any opinion on the merits, lest it may prejudice either side at trial.

(SUNIL GAUR)
JUDGE

May 18, 2015

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