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

Judgment delivered on: 13th October, 2015

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CRL.M.C.No.5915/2014

KULDEEP KAUR

..... Petitioner

Represented by: Mr. Deepak Kohli and Mohd.
Shariq, Advocates with Petitioner
in person.

Versus

STATE (NCT OF GOVT OF DELHI) & ANR

..... Respondents

Represented by: Mr.Sudershan Joon, Additional
Public Prosecutor for the State with
ASI Shri Ram, PS Hari Nagar.
Mr. Abhishek Goyal and Mr. C.
Prakash, Advocates for Respondent
No.2 with Respondent No.2 in
person.

CORAM:

HON'BLE MR. JUSTICE SURESH KAIT

SURESH KAIT, J. (Oral)

1. By way of this petition under Section 482 of the Code of Criminal Procedure, 1973, petitioner seeks setting aside of the order dated 30.01.2012 passed by the learned Metropolitan Magistrate, Delhi, and the order dated 17.10.2013 passed by the learned Additional Sessions Judge, Delhi, in Criminal Appeal No.272/4/13

2. It is noted that the respondent No.2 filed a petition under Section 12 of the Protection of Women from Domestic Violence Act, 2005 (hereinafter to be referred as 'the Act'). The same was allowed by the learned Metropolitan Magistrate vide its order dated 30.01.2012, whereby the petitioner was directed not to dispossess the respondent No.2 from her

matrimonial home till further orders.

3. Being aggrieved, the petitioner challenged the same by filing an appeal bearing Criminal Appeal No.272/4/2013 under Section 29 of the Act, which was dismissed by the learned Appellate Court vide order dated 17.10.2013.

4. Learned counsel appearing on behalf of the petitioner submits that the conveyance deed of the property in question bearing JA-22B, Hari Enclave, Delhi, is in the name of the petitioner, thus, the petitioner is the absolute owner of the same.

5. Thus, her son Ranjeet Singh who is husband of respondent No.2 has no share in the above property. Whereas claim of the respondent No.2 is that this property was in the name of the husband of the petitioner, who died intestate in the year 2003. Thereafter, the petitioner forged the documents to get the said conveyance deed in her favour, therefore, husband of the respondent No.2 has a share in the said property, being the ancestral property and hence, the same is a 'shared house as regards respondent No.2 is concerned.

6. It is not in dispute that the petitioner has right to say in the property in either of the situation.

7. From the above controversy, the question arises for consideration is whether the conveyance deed in favour of the petitioner is based on the forged documents or not? However, the same cannot be decided in these proceedings, as it is the subject matter of the civil suit, which can only be decided after considering the evidence to be led by both sides during trial.

8. The fact remains that there are two orders passed by the learned Metropolitan Magistrate and the learned Appellate Court, which are in favour of the respondent No.2. Thus, the petitioner cannot throw out the respondent No.2 from the house in question. It is also not in dispute that the petitioner is not staying in the said house and that has been occupied fully by the respondent No.2.

9. The learned counsel for the petitioner submits that the petitioner was beaten up mercilessly by the respondent No.2 in the month of June, 2012, which incident is recorded in a Compaq Disc (CD) and consequent thereto, FIR bearing No.164/2013 was registered at Police Station Hari Nagar, Delhi, for the offences punishable under Sections 323/380/506/34 of the Indian Penal Code, 1860 ('IPC').

10. As stated by the learned counsel for the respondent No.2, charges against the respondent No.2 have been framed under Sections 323/506/34 IPC and the case is pending for prosecution evidence. It is also submitted that the petitioner also used to commit atrocities upon the respondent No.2, thus, there is no possibility of leaving together with the petitioner.

11. In view of the above, it is prayed that only solution can be made is that the said property be let out on rent and the rent earned from the same shall be shared equally by the petitioner and the respondent No.2.

12. For my satisfaction, the said CD is played on the Desktop of the Computer installed in the Court Room.

13. After seeing the same, without commenting upon the merits of the case and the contents of the CD, I am of the considered opinion that the

petitioner and the respondent No.2 cannot leave together. Accordingly, the respondent No.2 is directed to vacate the house in question within two months from today and thereafter, the same shall be given on rent, which shall be shared equally by the petitioner and the respondent No.2.

14. It is further directed that after vacating the aforesaid property, the respondent No.2 shall let out the same within one week thereafter and if she fails to do so, then the petitioner will find out a tenant and accordingly let out the property in question.

15. It is clarified that the property in question may be let out by any party, as noted above, however, in the Rent Agreement, it will be specifically mentioned that the rent amount will be paid equally to the petitioner and the respondent No.2 by way of pay order/cheque/DD to avoid further litigation in this respect.

16. I hereby make it clear that the aforesaid arrangement shall be subject to the opinion of the Civil Court, in case the petitioner approaches the said Court to ascertain the fact that the conveyance deed in her favour was legal and proper. Liberty is also granted to the respondent No.2 to challenge the said conveyance deed.

17. Till then, the said arrangement shall be binding upon both the parties.

18. In view of the above, the instant petition stands disposed of.

**SURESH KAIT
(JUDGE)**

OCTOBER 13, 2015/sb