

\$~31

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ CM(M) 164/2016
SATNAM KAUR

..... Petitioner

Through Petitioner with her counsel Mr.S.K.
Sharma, Mr. Prayas Aneja and Mr.
ARchit Vasudeva, Advs.

versus

AVTAR SINGH & ANR

..... Respondents

Through Nemo.

CORAM:

HON'BLE MS. JUSTICE INDERMEET KAUR

ORDER

% **17.02.2016**

C.M.No.5793/2016 (Exemption)

Exemption is allowed subject to all just exceptions.

Application disposed of.

CM(M) 164/2016 & C.M. No.5792/2016 (stay)

The petitioner is aggrieved by the order dated 28.01.2016 vide which in the suit for declaration which had been filed by the plaintiff seeking declaration to the effect that the two sale deed dated 19.08.2009 and 18.12.2009 executed by the plaintiff in favour of the defendants be cancelled; this was due to administrative exigencies.

The averments in the plaint disclose that the property in question i.e. property bearing No. 2/68, Old Rajinder Nagar, New Delhi was initially owned by Jaswant Singh. He had died inte-state on 28.08.1980. Vide a registered relinquishment deed dated 07.01.1985 (perused by this Court), all the legal heirs had relinquished their shares in favour of Satnam Kaur, the widow of Jaswant Singh. Vide two separate sale deed

dated 19.08.2009 & 18.12.2009, one half share of the property in question was sold to the two defendants before the Trial Court namely Avtar Singh and Harminder Kaur i.e. the son and daughter-in-law of the plaintiff. These sale deeds were registered. It had thereafter subsequently come to notice that this property was lease-hold and it was required to be converted to free-hold which was finally converted into free-hold on 30.03.2015. Accordingly a fresh registration of the earlier sale deeds dated 19.08.2009 and 18.12.2009 was required. The office of the Sub-Registrar however did not conform to this task informing the parties that they were required to get the earlier sale deeds cancelled. The present suit (pending before the Trial Court) was accordingly filed seeking a cancellation of the aforementioned two sale deeds dated 19.08.2009 & 18.12.2009.

Learned counsel for the petitioner is aggrieved by the impugned order wherein the Trial Court had thought it necessary to give notice to the other legal representatives of late Jaswant Singh i.e. the other children of the plaintiff Satnam Kaur. The petitioner is present in Court also. She has also been queried. She has answered coherently to all questions put to her.

There was a voluntary transfer of the property by Satnam Kaur (full owner in terms of the registered relinquishment deed in her favour dated 07.01.1985) to her son and daughter-in-law. It was only due to administrative reasons when the parties learnt that the property was a lease-hold and not free-hold that it became necessary to get the earlier sale deeds to be declared null and void. The necessity of impleading all the legal heirs thus did not arise. The impugned order is accordingly set

aside.

This suit is simplicitor a suit for declaration seeking a declaration to the effect that the earlier two sale deeds dated 19.08.2009 and 18.12.2009 be declared null and void. There was not very much that the Trial Court had to do except to pass an order on this suit. It is also not as if the suit was not maintainable. Parties to appear before the Trial Court on date already fixed i.e. on 19.02.2016 on which date the Trial Court shall pass appropriate orders.

With these directions, petition disposed of.

Order dasti under the signatures of the Court Master.

INDERMEET KAUR, J

FEBRUARY 17, 2016

A