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

\+ W.P.(C) 1666/2016

SANTOSH PURI ..... Petitioner

Through: Mr. R.M. Bagai, Adv.

versus

DELHI DEVELOPMENT AUTHORITY & ANR..... Respondents

Through: Ms. Gurneet Kaur, Adv. for DDA

Mr. Ritesh Agrawal, Adv. for R-2

CORAM:
HON'BLE MR. JUSTICE MANMOHAN

<u>O R D E R</u>

% **26.07.2016**

The present writ petition has been filed seeking a direction to the respondent- DA to convert the property bearing no. A-2/150, Safdarjung Enclave, New Delhi – 110 029 to freehold and to issue a conveyance deed in favour of the petitioner and respondent No. 2 in accordance with the joint application dated 28th October, 2013.

It has been averred in the writ petition that vide order dated 29th May, 2010 Suit no. 345/2008 was decreed in accordance with the settlement agreement by which 25% share in the aforesaid property was to vest with respondent No. 2-son and 75% share was to vest with the petitioner-mother.

Learned counsel for the petitioner states that on 28th October, 2013, the petitioner with respondent No. 2 jointly applied for conversion of the aforesaid property after completing all the formalities, but the respondent-DDA has not processed the application till date.

In the counter affidavit filed by the respondent-DDA, it is stated that it is unable to process the application for conversion on the ground that there is a dispute between the petitioner and her son-respondent No. 2.

Today, learned counsel for respondent No. 2, on instructions of respondent No. 2 who is personally present in Court, states that he has no objection to conversion of the aforesaid property into freehold. He, however, states that as a CBI case with regard to disproportionate assets was registered against his father, who was the owner of the property in question and the case had been referred to Income Tax Department, an indemnity should be given by the respondent-DDA. In support of his contention, he has referred to the letter dated 27th May, 2002 written by the Deputy Director (LA), Residential to the Superintendant of Police, CBI.

However, learned counsel for the respondent-DDA states that the alleged letter dated 27th May, 2002 is not on its record. She further states that DDA has not received any intimation from either the CBI or the Income-Tax Department with regard to dues qua the property in question.

Learned counsel for the petitioner, on instructions of the petitioner who is personally present in Court, states that her husband was not a Government official and no CBI case had been registered against him. He further states, on instructions of the petitioner, that a demand of Rs.51,000/- had been raised by the income tax department against her deceased husband which she has already paid.

Having heard learned counsel for the parties, this Court is constrained to observe that the apprehensions expressed by respondent

No. 2-son are a red-herring and have been raised only to protract the possession of the property in question.

DDA in its counter affidavit has clearly stated that there is no vigilance angle involved in the present case.

In any event, the father of respondent No. 2 had expired on 19th June, 1986 i.e. nearly 30 years ago and admittedly till date no proceedings have been initiated either against the petitioner or respondent No. 2 or qua the property in question.

Even if there is any income tax dues, the legal heirs of the deceased would be liable in equal proportion to the extent that they have inherited his estate. Under no circumstance, can DDA be asked to give any indemnity on account of either the income tax dues or the pendency of alleged CBI case.

Consequently, the objections raised in the counter affidavit by respondent No. 2 are untenable in law.

Accordingly, the respondent –DDA is directed to process the joint application for conversion dated 28th October, 2013 within a period of four weeks. A copy of the reasoned order shall be communicated to the petitioner as well as respondent No. 2 by registered post.

With the aforesaid observations and direction, the present writ petition is disposed of.

MANMOHAN, J

JULY 26, 2016
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