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

+ CRL.M.C. 3456/2014

M/S SHANTRU FARMS PVT LTD & ORS Petitioner

Represented by: Mr.Rakesh Kumar Khanna,
Sr.Advocate instructed by
Mr.Siddharth Khatana,
Mr.Sudhir Nagar, Ms.Shefali
Jain, Advocates

versus

CHANDAN SINGH Respondent

Represented by: Mr.V.Madhukar, Advocate
with Mr.Paritosh Anil,
Advocate

CORAM:

HON'BLE MR. JUSTICE PRADEEP NANDRAJOG

ORDER

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07.09.2016

CRL.M.C. 3456/2014

1. The petitioners are aggrieved by the order summoning them in CC No.77/01/13 issued by Ms.Purva Sareen, Metropolitan Magistrate, Saket. Defending the summoning order, the complainant pleads in paragraph 2 of the reply to the petition as under:-

“2. That the summoning order under challenge is a well-reasoned order and prima-facie offence is made out against the petitioners and as such the indulgence of this Hon’ble Court is not called for in the facts of the present case. That the petitioners have merely raised the plea that the area under dispute i.e. khasra number 1574 (0-08) and 1575 (0-02) in village Fatehpur Beri, is not in their possession whereas, the said fact can only be verified after proper demarcation of the

land by the revenue department and since the Trial Court is the fact finding Court, and the same being a disputed fact, only during trial can it be decided whether the contention of the petitioners is valid or the allegations of the Respondent are true. That merely on the said ground the case against the petitioners cannot be quashed since on a prima facie reading the Learned magistrate has found the allegations to be correct especially in light of the pre summoning evidence which has been recorded in the instant case. That the law pertaining to summoning in criminal complaints is very clear on the point that the Magistrate only needs to look into the complaint and the documents of the complainant at the initial stage and if he is satisfied that a prima facie case is made out then he should issue summons. That the accused persons have the right to defend their case at the stage of framing of notice U/s 251 Cr.P.C. and which stage has not yet commenced in the present case and hence the present petition is liable to be dismissed, being premature and without merits.”

2. The reply itself justifies the complaint as also the summoning order to be quashed.
3. I expand.
4. The respondent has admittedly executed three sale-deeds on December 27, 1996 in favour of the petitioner No.1 company. Under the three sale-deeds he has sold 4 bigha and 9 biswa land comprised in khasra No.1718/1563 (1-11) & 1574 Min.(2-18); 2 bigha and 17 biswa land comprised in khasra No.1117/1563 (2-1) & 1563 (0-16); 4 bigha and 14 biswa land comprised in khasra No.1564 Min. (3-19) & 1564 (Min.(0-15)-situated in revenue estate of village Fatehpur Beri, Tehsil Mehrauli, New Delhi to the petitioner No.1 and claims to have retained possession of 8 biswa and 2 biswa land comprised in khasra No.1574 and 1575 respectively in the revenue estate of village Fatehpur Beri. He claims that he entrusted

possession thereof to the petitioners who have refused to return possession thereof to him.

5. The complainant has no proof of having handed over possession of 8 biswa and 2 biswa land respectively comprised in khasra No.1574 and 1575 to petitioners.

6. Be that as it may, it is the stand of the petitioners that they are not occupying even an inch of land more than what was sold by the complainant to them under the three sale-deeds dated December 27, 1996. The petitioners deny possession ever being entrusted to them or being with them of the disputed land.

7. In the reply filed the complainant justifies the continuation of the criminal proceedings on the ground that this fact can be verified after demarcation is done by the revenue authorities.

8. A piercing look at the complaint would show that under the garb of the complaint the complainant wants demarcation of the land.

9. The dispute is of a civil nature. Learned Senior Counsel for the petitioners states that the lands purchased by the petitioners have already been demarcated and for which contention a demarcation report annexed as Annexure-4 has been relied upon. I do not wish to comment upon the demarcation report because suffice it to note that as per Section 28 of the Delhi Land Revenue Act, 1954 disputes regarding boundaries have to be decided by the Deputy Commissioner on the basis of survey maps.

10. A meaningful reading of the complaint after piercing through its veil would evince that the story of entrustment has been weaved in the complaint to give colour of a criminal nature to the dispute. The reply filed by the complainant itself brings out that the dispute can be resolved only by

effecting demarcation, which has to be done by the revenue authorities.

11. The petition is accordingly disposed of quashing the order summoning the petitioners dated May 02, 2014. CC No.77/01/13 is quashed.

12. No costs.

Crl.M.A.No.11950/2014

Dismissed as infructuous.

PRADEEP NANDRAJOG, J.

SEPTEMBER 07, 2016

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