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

+ CRL.M.C. 4655/2013

BALJIT SINGH & ORS. Petitioners

Represented by: Mr.C.L.Gupta, Advocate with
Mr.N.C.Garg, Advocate

versus

STATE & ANR. Respondents

Represented by: Mr.Amit Ahlawat, APP with
SI Devender, PS Kanjhawla

CORAM:

HON'BLE MR. JUSTICE PRADEEP NANDRAJOG

ORDER

% **08.09.2016**

1. I have perused the complaint lodged by Rajbala and I find no reference made to the property in respect whereof Rajbala has made the complaint. She refers to her husband being a member of a joint family. She refers to some land being acquired and compensation to be paid. There is no particular of the immovable property with reference to any municipal number and if she intended to refer to agricultural land its khasra numbers and the revenue estate of the village concerned.

2. But I have better reasons to allow the petition. The complaint filed was registered as CC No.27/1/2011 and was dismissed on July 20, 2013 because it was the third consecutive date when the complainant did not appear. Thereafter on August 13, 2013 the learned Metropolitan Magistrate has restored the complaint.

3. None has been appearing for the complainant, impleaded as respondent No.2 in the instant petition save and except on two dates when opportunity was granted to file the reply and none has been filed. None appears for respondent No.2 even today.

4. Learned counsel for the State concedes that a Magistrate has no power to restore a complaint which is dismissed in default. This would therefore be sufficient reason to quash the order dated August 13, 2013 under which the SHO has been directed to register an FIR while simultaneously restoring the complaint. The other error in the order could be to straightway direct registration of the FIR without considering whether it was a case where no police assistance was warranted and the complainant was capable of establishing her case by producing such witnesses and such record which could have established her charge.

5. The petition is allowed. Order dated August 13, 2013 in CC No.27/1/2012 is quashed. FIR No.297/2013 PS Kanjhawala which is the result of the order is also quashed.

PRADEEP NANDRAJOG, J.

SEPTEMBER 08, 2016

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