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

+ W.P.(C) 6314/2014

SOHANLAL SHERSIA

..... Petitioner

Through: Mr. K.P. Singh Chauhan, Advocate

versus

DDA AND ORS

..... Respondents

Through: Mr. Chetan Lokur with Mr. Nitish Chaudhary, Advocates for DDA and Mr. Rajesh Kumar, A.D. (Lab, Rohini), DDA

CORAM:

HON'BLE MR. JUSTICE J.R. MIDHA

ORDER

% **04.04.2016**

1. The petitioner purchased plot bearing No.65 measuring 25 square meters situated at Block-D, Pocket-11, Sector-7, Rohini from Mr. Nawal Mehta, constituted attorney of the co-allottee, Mr. Laxmi Narain Khanna vide agreement to sell and general power of attorney dated 19th August, 1994.
2. On 15th November, 1995, the petitioner applied for conversion of the subject property from lease hold to free hold, whereupon Delhi Development Authority while processing the application observed that the subject plot has been sold only by one co-lessee, namely, Mr. Laxmi Narain Khanna. However, Mrs. Veena Khanna, wife of Mr. Laxmi Narain Khanna, was also a co-lessee who had not signed the sale documents and this objection was intimated to the petitioner.
3. Vide letter dated 03rd October, 2008, the petitioner submitted the affidavit of the co-lessee, Mrs. Veena Khanna in which she affirmed that

her husband Mr. Laxmi Narain Khanna had sold the subject property to Mr. Nawal Mehta and she shall not claim any right in future. The petitioner submitted the identity proof (voter identity card) of Mrs. Veena Khanna on 07th January, 2009.

4. The original record has been produced by learned counsel for Delhi Development Authority which reveals that Delhi Development Authority has no objection to the conversion of the subject property from lease hold to free hold subject to the genuineness of the affidavit of Mrs. Veena Khanna being confirmed by her.

5. Learned counsel for the petitioner submits that Delhi Development Authority issued notice(s) to Mrs. Veena Khanna on 02nd January, 2012 but she did not respond to the same. It is further submitted that Mrs. Veena Khanna was impleaded as respondent No.3 by this court on 19th September, 2014 but she failed to appear despite service and was proceeded *ex parte* by this Court on 20th November, 2015. Learned counsel for the petitioner submits that a presumption can be drawn that Mrs. Veena Khanna has no objection to the conversion from lease hold to free hold. It is further submitted that the petitioner is ready to give an indemnity bond to Delhi Development Authority to indemnify in the event of any objection being raised by Mrs. Veena Khanna to her affidavit dated 26th September, 2008 filed by the petitioner before the Delhi Development Authority.

6. On careful consideration of the contentions raised by the petitioner, this Court is of the view that considering the failure of Mrs. Veena Khanna to appear before this Court despite service, it can be presumed that she has no objection to the sale of the subject property by her husband and, therefore, it would be proper for Delhi Development Authority to mutate the subject property in favour of the petitioner subject to the petitioner furnishing an indemnity bond. Learned counsel for Delhi Development

Authority shall furnish the format of the indemnity bond to the petitioner's counsel within 10 days, whereupon the petitioner shall submit the indemnity bond in the requisite format within a period of two weeks thereafter. Upon furnishing of the indemnity bond, Delhi Development Authority shall restore the earlier application for conversion and process the same within a period of four weeks and the subject property be converted within a period of six weeks from the date of submission of the indemnity bond by the petitioner. If on processing of the application, any other requirement is to be fulfilled by the petitioner, the same shall be intimated to the petitioner within a period of four weeks from the date of submitting of the indemnity bond and the subject property shall be converted from lease hold to free hold within four weeks of the petitioner completing the same. The petitioner shall remain bound by the indemnity bond to be submitted by him to Delhi Development Authority.

7. The petition is disposed of in the above terms.
8. On the request of learned counsel for the respondents, it is clarified that this order has been passed in the peculiar facts and circumstances of this case and shall not be treated as a precedent.
9. Copy of this order be given *dasti* to counsels for the parties under signatures of the Court Master.

J.R. MIDHA, J.

APRIL 04, 2016
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