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IN THE HIGH COURT OF DELHI AT NEW DELHI

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Date of Decision: March 30, 2016

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W.P.(C) 4078/2015

BAL KISHAN BANSAL

..... Petitioner

Represented by: Mr.Pankaj Gupta, Advocate

versus

THE JAMMU & KASHMIR BANK

LTD. & ANR

..... Respondents

Represented by: Mr.Rohit Singha, Advocate for R-1
Mr.S.S.Jauhar, Advocate with
Mr.Rajesh, Advocate for R-2
Mr.Ajit Singh, Tehsildar (Saket) and
Mr.Om Prakash, Patwari (Saket)

CORAM:

HON'BLE MR. JUSTICE PRADEEP NANDRAJOG

HON'BLE MS. JUSTICE MUKTA GUPTA

PRADEEP NANDRAJOG, J. (ORAL)

1. As hearing concluded, Mr.Pankaj Gupta learned counsel for the petitioner and Mr.S.S.Jauhar for respondent No.2, much to the happiness of respondent No.1 consented to the petition being disposed of affirming the sale by the Debts Recovery Officer No.1 which is under challenge in the instant petition and recording a consent between the petitioner and respondent No.2 that the dispute concerning the situs of the 600 sq.yards land purchased by the deceased wife of the petitioner comprised in Khasra No.157, ad-measuring 4 bigha and 16 biswa in the revenue estate of village Rajpur Khurd, Tehsil Mehrauli and the situs of 1 bigha land comprised in the same khasra number, put to auction by the Debts Recovery Tribunal, and purchased by respondent No.2, would be decided in a civil suit between

the petitioner and the respondent No.2.

2. We are constrained to record an opinion, notwithstanding consent between the parties, because we are finding that the Recovery Officers attached to the Debts Recovery Tribunal are selling properties in a most callous and haphazard manner resulting in unnecessary litigation. The facts of the instant case illustratively bring out the dismal state of affairs in the office of Debts Recovery Tribunal in Delhi.

3. Concerning a credit provided by the respondent No.1 bank to M/s Polykep Industries, one Ranjana Kapoor stood guarantee and mortgaged 1 bigha land (1008 sq.yards) comprised in Khasra No.157 (4 -16) in the revenue estate of village Rajpur Khurd, Tehsil Mehrauli.

4. The sale-deed annexed as Annexure-B to the writ petition simply records that Ranjana Kapoor had purchased 1 bigha land out of 4 bigha and 16 biswa land in Khasra No.157. There is no plan annexed nor a Schedule to the sale-deed. The sale-deed throws no light as to where is the situs of said 1 bigha land within the 4 bigha and 16 biswa land comprised in Khasra No.157.

5. Pushapa Bansal, deceased wife of the petitioner, purchased under an agreement to sell and power of attorney 600 sq.yards land comprised in Khasra No.157 and the agreement to sell suffers same lack of clarity as does the sale deed dated January 28, 1991 under which Ranjana Kapoor purchased 1 bigha land.

6. Without resolving the issue as to what were the boundaries of 1 bigha land purchased by Ranjana Kapoor, to recover the dues of the first respondent bank, in execution of order dated November 10, 2003 passed by Debts Recovery Tribunal decreeing claim of the first respondent bank in sum of ₹31,04,366/-(Rupees Thirty One Lac Four Thousand Three Hundred

Sixty Six only) with costs and pendente lite and future interest @ 10% per annum with effect from December 10, 2002, the Recovery Officer attached to the Debts Recovery Tribunal drew up a proclamation to sell on, as is where is basis, 1 bigha land. The proclamation describes the property as under:-

“Property measuring One Bigha out of Khasra No.157 (4-16), Village Rajpur Khurd, Tehsil Mehrauli, New Delhi.”

7. The second respondent was the highest bidder and bid in sum of ₹26,10,000/- (Rupees Twenty Six Lacs Ten Thousand only) was accepted. A sale certificate was issued in his favour on September 26, 2007 and the property sold is recorded :

“Property bearing No.: Property measuring One Bigha out of Khasra No.157 (4-16), Village Rajpur Khurd, Tehsil Mehrauli, New Delhi.”

8. Obviously, it is a recipe for a disaster. On the strength of the sale certificate when respondent No.2 proceeded to take possession of the land, which is vacant, he faced resistance from the petitioner. The dispute obviously was as to what is the location at site of the 600 sq.yards land purchased under an agreement to sell and power of attorney by the late wife of the petitioner and the 1 bigha land purchased in the auction by respondent No.2.

9. Thinking that the issue could be resolved, the predecessor Bench hearing the writ petition, on December 03, 2015, directed the Patwari of village Rajpur Khurd to demarcate the land purchased by late wife of the petitioner and the one purchased by Ranjana Kapoor.

10. The result as expected is a status report filed under the signatures of Vikas Ahlawat, the Sub-Divisional Magistrate, In-charge of Revenue

Department, Government of NCT of Delhi, stating that except for demarcating 4 bigha and 16 biswa land comprising Khasra No.157 in the revenue estate of village Rajpur Khurd, the revenue authorities can do no more.

11. The status report is taken on record.

12. Now, it is impossible under writ jurisdiction to demarcate the land purchased by late wife of the petitioner and the one purchased by respondent No.2.

13. Under the Delhi Land Revenue Rules, 1962 the map and a field book of every village comprised in a revenue estate has to be maintained as per Rule 49. Any division in a field has to be indicated in the revenue map as per Rule 57. This can obviously be done if the document under which a khasra is divided indicates the manner of division of the khasra. This has just not happened in the instant case and regrettably the Recovery Officer attached to the Debts Recovery Tribunal did not bother to insure before auctioning the land belonging to Ranjana Kapoor that demarcation was effected in the revenue record. This was only possible if notice was served upon the other holders of the land comprised in Khasra No.157 in the revenue estate of village Rajpur Khurd, because total land comprised in said khasra is 4 bigha and 16 biswa, out of which Ranjana Kapoor purchased only 1 bigha and late wife of petitioner purchased only 600 sq.yards. To some extent the first respondent bank is also responsible for the mess because it accepted mortgage of an unidentified parcel of land.

14. There were two options available. The first was to set aside the sale and revive the proceedings before the Recovery Officer with a direction that the Recovery Officer would serve other owners of the land comprised in Khasra No.157 and hear them and thereafter identify the boundaries of 1

bigha land owned by Ranjana Kapoor which had to be auctioned. The other was to let the petitioner and respondent No.2 slug it out before a Civil Court. Learned counsel for respondent No.2 i.e. the auction purchaser says that the auction purchaser, who is present in Court, accepts the second option. Learned counsel for the petitioner likewise, under instructions from the petitioner who is present in Court, accepts the second option. Obviously the bank is happy because money realized by the auction has reached its coffers and is being retained by the bank.

15. The petition is accordingly disposed of declaring that title of the petitioner to 600 sq.yards of land comprised in khasra No.157 ad-measuring 4 bigha and 16 biswa in the revenue estate of village Rajpur Khurd is sans the description of the boundaries of the land and that the title of respondent No.2 to 1 bigha land comprised in Khasra No.157 ad-measuring 4 bigha and 16 biswa in the revenue estate of village Rajpur Khurd is also sans the description of the boundaries of the land. Consent of the petitioner and respondent No.2 is recorded that they will resolve the issue concerning boundaries of their respective lands at a civil trial. Benefit of the sale proceeds would be retained by respondent No.1.

16. No costs.

CM No.7307/2015

Dismissed as infructuous.

(PRADEEP NANDRAJOG)
JUDGE

(MUKTA GUPTA)
JUDGE

MARCH 30, 2016

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