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

+ W.P.(C) 7671/2014

PARMILA BAGHLA

..... Petitioner

Through : Mr. Saurabh Sharma and Mr.
Shreshtha Kumar, Advs.

versus

SUB DIVISIONAL MAGISTRATE & ORS Respondents

Through : Mr. Naushad Ahmed Khan, ASC
(Civil), GNCTD with Ms. Astha
Nigam, Adv. for R-1, 2 & 3.
Mr. M. K. Mishra, Proxy counsel for
Mr. Viplov Sharma, Adv. for R-8 to
10.

CORAM:

HON'BLE MR. JUSTICE A.K. PATHAK

ORDER

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26.04.2016

By this writ petition under Article 226 of the Constitution of India, petitioner has prayed that attachment order (Annexure P2) passed by the respondent no.1/SDM, Preet Vihar, Delhi, in respect of the petitioner's property bearing no.301, Chhabra Office Complex, 8, Veer Sawarkar Block, Shakarpur, Delhi-110092 (for short hereinafter referred to as 'Subject Property') be set aside and subject property be de-sealed.

It emerges from the record that subject property has been attached pursuant to a recovery certificate issued by the Labour Commissioner for Rs.3,22,456/- plus interest with effect from 1st September, 2003 against one

M/s Gupta Packaging Private Limited to execute the Award dated 5th December, 2001 passed by the Labour Court in ID No.26/94 titled as Shiv Narain Jaitley Vs. Assistant Labour Commissioner & Ors. Shri Shiv Narain Jaitley filed a W.P. (C) No.2063/2008 wherein on 13th February, 2012, Shiv Narain Jaitley-Workman submitted in the Court that subject property belongs to the respondent nos.6 to 8 (Mr. Manoj Kumar Tyagi, Mr. Surender Tyagi and Ms. Mamta Tyagi) and be attached. In view of this statement, learned counsel for the respondent nos.1 & 2 (Assistant Labour Commissioner and Labour Commissioner) in the said writ petition submitted that since petitioner had claimed in his affidavit that subject property belonged to the respondent no.6 to 8, the respondents shall take necessary steps for attachment of the aforesaid property within a week. The respondent no.1/SDM, Preet Vihar, Delhi appears to have attached the subject property in view of the above order.

By placing reliance on the chain of ownership documents including Sale Deed dated 9th September, 2010, petitioner has claimed herself to be the owner of the subject property. It is submitted that M/s Gupta Packaging Private Limited or any other person more particularly named in the memo of party of W.P. (C) No.2063/2008, have no concern with the subject property.

Without holding any enquiry, respondent no.1 has attached the subject property merely on the statement of the workman. Respondent no.1 did not bother to verify as to whether the said persons were owners of the subject property or not, before issuing attachment order in a mechanical manner.

It is further submitted that petitioner had filed an application (Annexure P-3) before the respondent no.1 praying therein that attachment order be revoked and subject property be de-sealed. The application was filed on 7th October, 2013. However, said application has been rejected vide order dated 17th February, 2014 (Annexure P-4) without holding any enquiry about ownership of the subject property, only on the ground that subject property was attached pursuant to the directions of the Hon'ble High Court.

A perusal of order dated 13th February, 2012 passed in W.P. (C) No.2063/2008 clearly indicates that after counsel for the workman made a statement that subject property was owned by the respondent nos.6 to 8, learned counsel for the labour department submitted that respondent shall take steps for attachment of the subject property. Admittedly, no enquiry was made to verify the statement of the workman that respondent nos.6 to 8 in the said writ petition owned the subject property or not. Be that as it may,

after petitioner brought to the notice of respondent no.1 that subject property was owned by her and was wrongly attached, it was obligatory on the part of respondent no.1, to hold an enquiry to verify the title of petitioner and upon satisfaction of the version of petitioner, to have revoked the attachment and de-seal the subject property.

For the foregoing reasons, respondent no.1 is directed to decide the application of the petitioner for revocation of the attachment and de-sealing of the subject property, after verifying the documents of ownership of the petitioner. Respondent no.1 shall pass a speaking order after conducting an enquiry. Respondent no.1 shall dispose of the application of the petitioner within three months. Petitioner shall appear before the respondent no.1 on 5th May, 2016.

Writ petition is disposed of in the above terms. Dasti.

A.K. PATHAK, J.

APRIL 26, 2016/dk