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IN THE HIGH COURT OF DELHI AT NEW DELHI

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W.P.(C) 7459/2016

PARUL GUPTA

..... Petitioner

Through Mr.Sunil Magan and Mr. Tanmay
Mehta, Advocates.

versus

SOUTH DELHI MUNICIPAL CORPORATION & ORS

..... Respondents

Through Mr.Nikhil Goel and Mr. Ashutosh
Ghade, Advocates for SDMC.

CORAM:

HON'BLE MS. JUSTICE INDERMEET KAUR

ORDER

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19.10.2016

C.M. No.30670/2016 (exemption)

Exemption is allowed subject to just exceptions. Application disposed of.

W.P.(C) 7459/2016 & C.M. No.30671/2016

Petitioner is aggrieved by the order dated 15.5.2013 passed by the SDMC (Assessment and Collection Department) wherein mutation of the property bearing No.B-101, Greater Kailash-I was effected in the name of Siddhartha Sareen (respondent no.2).

Record shows that this property was originally owned by the father of the petitioner and respondent no.2; his widow has been arrayed as respondent no.3.

At the outset, learned counsel for respondent no.1 (SDMC) has

raised an objection to the maintainability of the petition. His submission is that the order under challenge has been passed more than three years ago. The petitioner cannot now lay a grievance on such an old dated order. His second submission is that a suit inter se petitioner and respondent nos.2 and 3 is pending before this Court and the interim relief prayed for by the petitioner was granted by the Single Judge. This had been upheld by the Division Bench as also by the Supreme Court.

The order of the Division Bench and the Supreme Court has been perused. The petitioner Parul Gupta had sought interim relief under Order XXXIX Rules 1 and 2 of the CPC; her challenge was that her father Sudhir Sareen was mentally and physically deranged and he was incapable of executing the will (relied upon by respondent nos.2 and 3 in the aforementioned civil suit). Relief of interim injunction had however been declined. The Court had however held that respondent nos.2 and 3 would not alienate certain suit properties during the pendency of the suit.

Learned counsel for petitioner submits that the mutation order is liable to be reviewed for two reasons. He has drawn attention of this Court to a document (page 110 of the paper book). This is an affidavit of respondent no.2 wherein he has stated that he has become the owner of the aforementioned property by virtue of a sale deed. Learned counsel appearing for respondent no.2 fairly concedes that this affidavit had been given inadvertently. This was later on corrected.

The second document highlighted by the learned counsel for petitioner is document at page 139 of the paper book. This is an

affidavit of respondent No.3 (Sunita Sareen). This affidavit has however been signed by respondent No.2 and not by respondent No.3. The contents of this affidavit further disclose that the deponent has stated that apart from herself, Siddharth Sareen is the only legal heir of Sudhir Sareen. There is no mention of the petitioner. On this count, respondent No.2 states that this affidavit has also been filed inadvertently but the corrected affidavit has now been filed before the Department. Learned counsel for the petitioner submits that these documents clearly establish that the mutation order has been passed wrongly and a right of hearing has not been afforded to the petitioner. This Court notes that a mutation does not create any title in favour of any party; the mutation order itself records that it is only for the tax purpose. The civil suit inter se the parties is pending which is a suit for partition filed by petitioner against her brother and mother. This suit will in fact decide the title of the parties.

However, noting the aforementioned two documents which have been highlighted by the petitioner, the petitioner is granted liberty to make a representation to the Competent Body who shall consider it in the light of the earlier order passed by it on 15.03.2013.

Petition disposed of.

Order dasti.

INDERMEET KAUR, J

OCTOBER 19, 2016

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