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

+ **W.P.(CRL) 2937/2016 & CRL.M.A. 15683/2016**

AJIT SINGH TANWAR & ORS

..... Petitioner

Through: Ms. Ashu Arora, Advocate

versus

STATE OF NCT DELHI & ORS

..... Respondent

Through: Mr. Avi Singh, ASC with Mr. Ananya Mohan, Adv for State with SI Rameshwar

Mr. Sudhir Kumar for R-2 to R-6

Mr. Vinod Kumar for R-7&8

CORAM:

HON'BLE MR. JUSTICE VIPIN SANGHI

ORDER

05.12.2016

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Issue notice. Notice is accepted on behalf of the State. Respondent nos.2 to 8 are present with their counsel and accepts notice.

The petitioners have preferred the present writ petition to seek the quashing of FIR No.14/2016 registered at PS Fateh Pur Beri under Section 467/468/471/474/120B, which is pending investigation presently. The petition is premised on a settlement arrived at between the petitioners on the one hand and respondent nos.2 to 8 on the other hand. The settlement is arrived at in civil proceedings. The parties moved an application under

Order 23 Rule 3 CPC, copies whereof have been placed on record.

Mr. Singh submits that the investigation conducted so far, prima facie, shows that the GPA dated 02.09.1987 allegedly executed and got registered on the office of the sub registrar Pehowa, Kurukshetra, Haryana does not appear to be genuine. In this regard, reference is made to a notice issued under Section 91 Cr PC to the Deputy Commissioner for verification of the said GPA.

I may observe that the GPA was purportedly executed by respondent no.2, respondent no.7, petitioner no.4 and late Bimla Devi in favour of petitioner no.3. Under the settlement arrived at between the parties, the property in question stands sold to petitioner no.1 and 2 by petitioner no.3 acting as attorney of respondent no.2, respondent no.7, petitioner no.4 and the legal representatives of late Bimla Devi. The original of the GPA dated 02.09.1987 has not yet been produced.

The submission of learned counsel for the petitioner is that under the settlement, respondent no.2, respondent no.7, petitioner no.4 and the heirs of late Bimla Devi have all acknowledged the fact that they entered into the agreement to sell with petitioner no.3 and had authorised petitioner no.3 to deal with the property by executing a GPA. In any event, to obviate any doubts with regard to authority of petitioner no.3 to deal with the property, a further registered GPA was executed on 04.02.2008 in favour of the plaintiff in the civil proceedings, who is petitioner no.1.

Mr. Singh submits that since the GPA dated 31.08.1987, which was allegedly got registered on 02.09.1987, forms the foundation of the title acquired by petitioner no.1 and 2, the petition cannot be allowed and the FIR cannot be quashed at this stage of the investigation.

On the other hand, learned counsel for the petitioner has pointed out that the parties belong to the same family; they have settled their overall disputes; the GPA in question has not been utilised to deal in respect of the property with any third party, and; in any event the original owners, namely, respondent no.2, respondent no.7, petitioner no.4 and the heirs of late Bimla Devi have once again recognised the fact that the property was validly dealt with by petitioner no.3 by selling the same in favour of petitioner nos.1 and 2. She submits that there are sufficient grounds for this court to quash the FIR and the proceedings arising therefrom.

Having heard learned counsel and perused the FIR as well as the settlement documents placed on record, in the facts and circumstances of this case, I am inclined to allow the petition and quash the FIR and the proceedings arising therefrom. This is for the reason that even though there are doubts raised with regard to the GPA executed by respondent no.2, respondent no.7, petitioner no.4 and the heirs of late Bimla Devi, the transfer of the property by petitioner no.3 in favour of petitioner nos.1 and 2 has been recognised and regularised. In these circumstances, no useful purpose would be served in investigating and getting into the issue whether or not the GPA dated 02.09.1987 was indeed genuinely executed or not. Even without the said GPA, the fact remains that the agreement to sell in respect of the property in question was entered into between the original owners, namely, respondent no.2, respondent no.7, petitioner no.4 and late Bimla Devi in favour of petitioner no.3 and possession delivered to petitioner no.3, who has thereafter transferred the same to petitioner no.1 and 2. Since the transfer documentation - duly registered in the office of the sub registrar, stands executed in favour of petitioner no.1 and 2, the same constitutes title

document and there is no question of the GPA in question being utilised for any purpose whatsoever hereafter. The original of the said GPA shall, therefore, not be utilised by the petitioners for any purpose whatsoever and the original of the same shall be, if available with the petitioner, surrendered before the office of the sub-registrar, Pehowa, Kurukshetra.

Learned counsel for the petitioner states that since the state machinery has been utilised in the matter, they are willing to compensate the State for the said purpose.

Accordingly, the FIR and the proceedings arising therefrom are quashed subject to deposit of Rs.20,000/- with the Prime Minister's National Relief Fund within two weeks. Copy of receipt of deposit be provided to the I.O. and whereafter the case shall be closed.

VIPIN SANGHI, J

DECEMBER 05, 2016

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