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

+ CM(M) 196/2017 & CM No.6471/2017

SUNITA DEVI

..... Petitioner

Through Mr.Arvind Vashistha, Advocate

versus

DALJEET SINGH

..... Respondent

Through

CORAM:

HON'BLE MR. JUSTICE JAYANT NATH

ORDER

20.02.2017

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1. By the present petition under Article 227 of the Constitution of India the petitioner seeks to impugn the order dated 7.11.2016 of the appellate court where the appeal filed by the petitioner was dismissed and the injunction passed by the trial court was confirmed. The respondent has filed a suit for permanent injunction claiming to be the owner in possession of Plot No.14, out of Khasra No.46/4 Revenue estate of Village Najafgarh, New Delhi. The respondent claims to have purchased a plot measuring 566 sq. yards forming part of the above khasra No.46/4 out of which he has sold 466 sq.yards.

2. The case of the petitioner is that her husband had purchased a plot measuring 100 sq.yards from the respondent and that the respondent had received full consideration and had executed title documents like GPA, Agreement to Sell, Affidavit, Receipt and delivery of possession on 23.5.2000.

3. The trial court while deciding the application for interim injunction

filed by the respondent noted that the petitioner has not placed on record any documents to substantiate their claim of being owner of the suit property. On the other hand it noted that the respondent has brought on record all relevant documents to show that he has purchased the property from its earlier owner Ms.Padma Rishi. Holding that the respondent has made out a prima facie case injunction order was passed restraining the petitioner/defendant not to dispossess the respondent from the said property.

4. One of the main grounds on which the appellate court upheld the order of the trial court was that it was the contention of the respondent that the documents of the petitioner are forged and fabricated and hence the original documents have not been filed. It also noted the submissions of the respondent that the documents relied upon by the petitioner, photocopies of which have been filed do not pertain to the suit property as the same belongs to a different plot, different boundaries and different blocks. Therefore, the same cannot be relied upon. It further concluded that the respondent to show prima facie case of possessory title over the suit property filed original documents of the suit property including previous chain of documents. On the other hand petitioner has not filed original documents of the suit property showing the chain of the suit property but has only filed photocopies. It also noted that the petitioner has not disputed the title of the respondent on the suit property.

5. Hence, one of the grounds which weighed in favour of the appellate court is that the petitioner has failed to produce the original documents.

6. Learned counsel appearing for the petitioner submits that the original documents were always in possession of the petitioner and they were willing to file the same and this submission had been made before the appellate

court. He submits that even today he is carrying the original documents. As one of the main grounds on which the contention of the petitioner has been rejected are about non-filing of the original documents, in my opinion, it would be appropriate for the petitioner to file a review petition before the trial court submitting that the documents are available.

7. Granting leave and liberty to the petitioner to file a review petition the present petition is disposed of. In case such a review petition is filed and there is delay in filing of the same the trial court may consider condonation of delay in filing of the review petition in view of the time spent by the petitioner in approaching this court. The review petition, if filed, may be decided, as per law.

8. Dasti.

JAYANT NATH, J

FEBRUARY 20, 2017

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