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

+ REVIEW PET.537/2017, CM APPL.47457-47459/2017 IN
RFA 409/2004

D.D.A. & ORS.

..... Appellant

Through: Mr. Udyan Khandelwal, proxy for Ms.
Shobhna Takiar, Advocate for DDA/non-applicant
in Review Petition.

versus

RAM KAUR & ORS.

..... Respondents

Through: Mr. Sandeep Sharma with Ms. Risha
Mittal, Advocates for review petitioner.

CORAM:

HON'BLE MR. JUSTICE S. RAVINDRA BHAT

HON'BLE MS. JUSTICE DEEPA SHARMA

ORDER

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05.01.2018

REVIEW PET.537/2017

1. The review petition is preferred by the unsuccessful petitioners in RFA 409/2004. The dispute pertains to plot nos.27/17 &18 Shakti Nagar. A common judgment which resolved the disputes, arose on account of the decision rendered in CS (OS) 1558/1984 - an injunction suit filed by the present review petitioner against the Delhi Development Authority ("DDA") and a writ petition preferred by the legal representatives of Late Beli Ram - W.P.(C) 103/1986 against Municipal Corporation of Delhi ("MCD"). In the writ petition it was

contended that the plot was purchased in an auction conducted sometime in 1955. The successful auction purchaser Beli Ram was not handed over the possession of the plot. In the meanwhile, the review petitioners claiming to be successors in interest and subsequent purchasers of plot no.27/17&18 (being the purchasers of the property from one Amna Bi) filed a suit for injunction, which was decreed. Since both the proceedings related to the same property, the judgments delivered by the Single Judge in the writ petition and the Additional District Judge in the suit, were heard together.

2. The Court by judgment and order dated 20.04.2017 concluded that the claims set up by the review petitioner, based upon the title and other documents said to have emanated from Amna Bi were not reliable. The crucial document i.e. P-60, on the basis of which, Amna Bi's ownership was sought to be established was held to be suspected, and in fact, forged documents. The Court had in the proceedings noticed that at an earlier stage upon concerted and coordinated action by the DDA and MCD, criminal proceedings had been initiated in respect of the forgery. It was thus concluded that the rejection of the writ petition (preferred by Beli Ram's LRs) could not be sustained. The claim in the writ, i.e., entitlement towards the plot and consequential action was allowed. The appeal preferred by the DDA was allowed. The result is that the possession of the respondent/review petitioner was held to be unlawful. The review petitioner's SLP (SLP No.15132-15133/2017) was initially entertained and an interim order made; subsequently on 29.11.2017, the said SLP was rejected and the interim order vacated.

3. Mr. Sandeep Sharma, learned counsel urges that even while holding that the petitioner's claim to title towards the property was suspect and unlawful, this is a matter that has attained finality. There is no dispute about the fact that she is in settled possession and in fact remained so for the last 35 years. It is contended that the said review petitioner has even constructed upon the said plot and that the judgment in the matter, has closed her right to claim the relief in this regard.

4. The Court considered the submissions by the review petitioner and the averments in the petition. The judgment was based upon an elaborate and detailed analysis of the documentary evidences made available in RFA 409/2004. This was in the form of depositions of witnesses and also no less than 80 documents including extracts of file, notes and resolutions of the erstwhile Delhi Improvement Trust and the DDA etc. Furthermore, the records of the writ petition that led that led to the LPA too were gone into. On an overall appraisal of the entire matter what transpires is that Amna Bi's claim to the property - which was the basis for the review petition - claimed to be true and lawful owners and consequent possession was held to be emanated in fact based upon the forgery. Having regard to these circumstances, the Court accepted the petitioners - LRs of Beli Ram's claims and directed the DDA/MCD to take consequential action. These directions are based upon the Court's exercise of the discretion having regard to the entire circumstances of the matter since all the records were available. To the extent, the Court pronounced the title and the nature of possession of review petitioner, it has attained

finality. The resultant directions that the Court made are in exercise of its jurisdiction under Article 226 of the Constitution which, in the circumstances, cannot be seen as impediment to the grant of complete relief to do justice between the parties.

5. Having regard to these background of circumstances, to permit the review petitioner to urge afresh that she has been in a settled possession and, therefore, ought to have been granted liberty to raise such pleas would be travesty of justice and that would undermine the entire basis of the judgment itself.

6. For the above reasons, the Court is of the opinion that there is no merit in the review petition; the same is accordingly dismissed.

S. RAVINDRA BHAT, J

DEEPA SHARMA, J

JANUARY 05, 2018
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