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

+ W.P.(C) 5529/2016

SUNITA GROVER

..... Petitioner

Through: Ms Gunjan Sinha Jain and Ms Nupur
Grover, Advocates.

versus

LAND AND DEVELOPMENT OFFICE (L&DO)
AND ORS

..... Respondents

Through: Mr Dev P. Bhardwaj, CGSC for UOI
with Mr Ajay Bajaj, Asstt. L&DO.
Respondent no.2 in person.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

ORDER

% **20.12.2017**

1. The petitioner has filed the present petition, *inter alia*, praying as under:-

- “a) Issue a Writ of certiorari or any other writ, order or direction in the nature of certiorari calling for the records of meeting in pursuance of order dated 7.7.2015 in W.P(C) No. 5895 of 2015.
- b) Issue a Writ of certiorari or any other writ, order or direction in the nature of certiorari for quashing the reply dated 31.8.2015 issued by the respondent No.1 in pursuance of the order dated 7.7.2015.
- c) Issue a Writ of certiorari or any other writ, order or direction in the nature of certiorari for quashing the substitution letter dated 12.11.2009 issued by respondent No. 1 in the name of respondent No. 2 and declaring all

actions/transfer of property on the basis of the documents executed after the impugned substitution null and void.”

2. Essentially, the petitioner impugns the substitution of respondent no.2 in place of Shri Piara Ram, who was the joint owner of the property measuring 204 sq. yards bearing no.1/18-B, Jungpura-A (hereafter ‘the property’).

3. The petitioner states that the property was originally leased out to Shri Kalu Singh and Shri Jagat Singh in the year 1964. The said property was, thereafter, sold to Late Shri Piara Ram and Late Shri Ram Lal who have since expired.

4. The controversy involved in the present case relates to the substitution granted by respondent no.1 in favour of respondent no.2 in respect of the share of Late Shri Piara Ram as the recorded owner/leasee of the property.

5. The learned counsel for respondent no.1 has today produced the original files containing the documents on the basis of which said substitution was granted. The said documents include affidavits allegedly affirmed by Smt Harbans Kaur and Smt Maya Devi (daughters of Shri Piara Ram) affirming their no objection for substitution in favour of respondent no.2. The said affidavits are stated to have been affirmed on 15.04.2009.

6. Ms Jain, the learned counsel appearing for the petitioner has drawn the attention of this Court to a copy of the Death Certificate pertaining to Smt Harbans Kaur, filed along with the writ petition, which indicates that Smt Harbans Kaur expired on 31.03.2003. The Death Certificate of Smt. Maya Devi has not been produced; however, it is asserted that she had expired in the year 2005.

7. The learned counsel for the petitioner also points out that respondent no.2 had affirmed in a criminal case that she had not applied for substitution and, in fact, had dealt with the property in 1994 itself and, therefore, had no occasion to make any application for substitution. Respondent no.2 is present in the Court and reiterates her statement that she had never applied for substitution.

8. If the petitioner is correct that Smt. Harbans Kaur and Smt. Maya had expired in the year 2003 and 2005 respectively, it is apparent that their affidavits filed with respondent no.1 on the basis of which substitution was granted are false. Perhaps some other person had impersonated them before the Metropolitan Magistrate for affirming the affidavits furnished to respondent no.1.

9. It is in the aforesaid context, that this Court had passed an order dated 07.07.2015 in the earlier petition preferred by the petitioner - W.P.(C) 5895/2015 - directing respondent no.1 to treat the said writ petition as a representation of the petitioner and take an appropriate decision thereon. It is seen that although several material facts were brought to the notice of respondent no.1, respondent no.1 has effectively declined to act on the said basis and has taken a stand that since it had allowed the substitution based on the documents, the petitioner would be free to seek remedy before a Competent Court regarding the forged documents and respondent no.1 could not prove the authenticity of the documents submitted by respondent no.2.

10. Plainly, the aforesaid stand of respondent no.1 is not sustainable. The order granting substitution expressly included the following caveat:-

“However, if it is found subsequently that certain facts have not been brought out to the notice of the government or the facts have been misrepresented, the government reserves the right to review the matter suo-moto.”

11. Now that it has been brought to the notice of respondent no.1 that the affidavits on the basis of which substitution was granted in favour of respondent no.2 are apparently false, it is incumbent upon respondent no.1 to take necessary action of verifying the correct facts and if the assertions made by the petitioner are found to be correct to cancel the substitution after giving due notice to all concerned parties.

12. In the present case, the petitioner has produced the Death Certificate indicating that Smt. Harbans Kaur expired on 31.03.2003. It is also asserted that Smt. Maya had expired in the year 2005. In the light of these facts, this Court is of the view that it is incumbent upon respondent no.1 to verify the death certificate and take an appropriate decision after undertaking a proper enquiry. It is not open for respondent no.1 to merely advise the petitioner to approach a competent court for redressal of her grievances.

13. In view of the above, the impugned order dated 31.08.2015 is set aside and the matter is remanded to respondent no.1 to take an informed decision after duly verifying the facts as asserted by the petitioner.

14. The decision would be taken by respondent no.1 as expeditiously as possible and in any event within a period of six weeks from today.

15. The petition is disposed of with the aforesaid direction.

VIBHU BAKHRU, J

DECEMBER 20, 2017
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