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

+ W.P.(C) 5985/2017

HAMID KHAN

..... Petitioner

Through: Dr Surat Singh with Mr Saurabh
Agarwal and Mr Amit Pratap
Shaunak, Advocates.

versus

UNION OF INDIA AND ORS

..... Respondents

Through: Mr Kirtiman Singh and Mr
vikramaditya Singh, Advocates for R-
1.

Mr Ramesh Singh, Standing counsel
with SI Sunil Kumar, R-2/Delhi
Police.

Mr Arun Kathpalia, Senior Advocate
with Mr Rajat Navet, Advocate for R-
3.

Ms Sangita Rai, SCGC with Mr
Pradeep Singh Tomar, Advocates.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

ORDER

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18.07.2017

CM No.24872/2017

1. Allowed, subject to all just exceptions.
2. The application stands disposed of.

W.P.(C) 5985/2017 & CM No. 24873/2017

3. The petitioner has filed the present petition, *inter alia*, praying for an

order directing respondent nos.1 & 2 to produce the records of ownership of property bearing no. 13 & 13A, Amrita Shergil Marg, New Delhi-110001 and to explain why two perpetual lease deeds in favour of two different sets of persons are existing in respect of the said property.

4. The petitioner claims that a perpetual lease deed relating to plot no. 44, Block No.1, Ratendon Road, New Delhi (presently known as 13/13A, Amrita Shergil Marg, New Delhi-110001) was executed in the year 1936 in favour of Nawab Tufail Ahmad Khan and Bashir Khan. In the year 1941, a perpetual lease deed was executed for the above property in favour of Mohd. Mazhar. The edifice of petitioner's entire case is built on allegation that the said perpetual lease deed was fraudulent as a second perpetual deed for the same property could not have been issued without cancelling or superseding the perpetual lease deed executed in the year 1936.

5. The petitioner claims to be one of the successors of Nawab Tufail Ahmad Khan and Bashir Khan and was declared as such recently in the year 2011-12.

6. The aforementioned property is a subject matter of sale deed dated 23.06.2014 whereby the same was sold by the daughters of Mrs Pushpa Guglani (respondent no.4 and 5) to M/s Tupelo Builders Pvt. Ltd. It is stated that Mohd. Mazhar expired on 31.12.1953 and on 04.02.1955, Tahira Begum and Qudsia Begum sold the leasehold rights of the said property to Mrs Pushpa Guglani by a sale deed dated 04.02.1955 which was registered on 21.05.1955. The property was mutated in the name of Mrs Pushpa Guglani in the records of L&DO on 17.05.1958.

7. The petitioner claims that the sale deed executed is also fraudulent and he has also raised these allegations before the Metropolitan Magistrate and on the directions of the learned Magistrate an FIR (FIR No. 0079 of 2015) has also been registered against respondent nos. 4 and 5.

8. The fundamental premise on which the petitioner has based his allegations - that is, there are two perpetual lease deeds of the same property - is flawed. The document of 1936 is an "Agreement for Lease" while the deed of 1941 is the "Perpetual Lease Deed". Thus, ex facie, there are no two perpetual lease deeds as claimed. The Perpetual Lease Deed was executed in favour of Mohd. Mazhar in 1941. There is no material whatsoever to indicate that Nawab Tufail Ahmad Khan or his successors were ever in possession or has asserted any right in the property in question after 1941.

9. Mr Kirtiman Singh, learned counsel appearing for respondent no.1 has also produced the original files of the L&DO.

10. The said files indicate that by virtue of a decree passed on 05.07.1937 by the Court of Commercial Judge First Class, Delhi in Suit No. 82 of 1937 captioned as '*Khan Bashir Hussain Khan v. Tufail Ahmad Khan*' it was declared that Tufail Ahmad Khan had sold the said property to Khan Bashir Hussain Khan.

11. The documents indicate that Bashir Hussain Khan and Tufail Ahmad Khan had acquired the property in question at a public auction held in February 1936 and the Agreement to Lease was entered in their favour. Bashir Hussain Khan had thereafter filed a suit against Tufail Ahmad Khan (being Suit No. 82 of 1937 captioned '*Khan Bashir Hussain Khan v. Tufail*

Ahmad Khan') claiming that Tufail Ahmad Khan had sold his title interest in the said property in his favour. This suit was decreed by the Commercial Judge First Class, Delhi in favour of Bashir Hussain Khan by a decree dated 05.07.1937. Thereafter Mr Bashir Khan had desired to transfer his interest in the property in favour of K.V. Mohd. Mazhar. He had also sent a letter dated 30.06.1939. Accordingly, the Perpetual Lease Deed was executed in favour of Mohd. Mazhar.

12. It is apparent from the above that there is no material available for the petitioner to make allegations of fraud, which have been made wantonly without any reason to believe in its truth. It *prima facie* appears that the petitioner was moved to create a dispute regarding the property in question on becoming aware that the same was subject matter of sale by respondent nos. 5 and 6. It also appears that FIR filed by the petitioner was also for the said ulterior purpose. The tendency of litigants to use the processes of Court to create the unnecessary dispute on becoming aware of the transactions in immovable property (which in most cases is motivated to extract a settlement amount) cannot be countenanced.

13. It is apparent from the above that the petitioner has abused the process of this Court. It is also clear that the petitioner has sought to invoke the machinery of the police authorities for his ulterior purposes.

14. The petition is, accordingly, dismissed with costs of ₹50,000/-.

15. The proof of depositing the cost with the Delhi High Court Legal Services Committee shall be furnished to the Registry within a period of two weeks from today. In the event, the cost is not deposited, the Registry is

directed to place this matter before this Court for taking further action.

VIBHU BAKHRU, J

JULY 18, 2017
MK/RK