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

+ **CM(M) 46/2017 & CM APPL. 1629-1630/2017**

RAKESH TANEJA

..... Petitioner

Through

Mr.Prabhat Srivastava, Mr.Sumit
Kundu & Mr.T.Mitra, Advocates

versus

THE DELHI DEVELOPMENT AUTHORITY & ORS...Respondents

Through

Mr.Sanjeev Sabharawal, Standing
Counsel for DDA

CORAM:

HON'BLE MR. JUSTICE JAYANT NATH

ORDER

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16.01.2017

CM No.1629/2017 (*exemption*)

Allowed subject to all just exceptions.

CM(M) No.46/2017 & CM APPL. 1630/2017

1. By the present petition filed under Article 227 of the Constitution of India, the petitioner seeks to challenge the order dated 12.10.2015 by which an application under Order 1 Rule 10 CPC for deletion of respondent No.2 as a party to the suit was dismissed.
2. The petitioner has filed the present suit for permanent and mandatory injunction against respondent No.1 in respect of the suit property. Respondent No.2 moved an application under Order 1 Rule 10 CPC seeking his impleadment as defendant. Both the parties claim to be the owner of the suit property.
3. As per the petitioner, the original allottee Sh.Sukhdev Singh Brar sold

the suit property to the petitioner and executed a Will, Special Power of Attorney, Agreement to Sell etc. Respondent No.2 claims title based on Special Power of Attorney, General Power of Attorney, Police Complaint and Office Noting.

4. The submission of the petitioner is that the said original allottee Sh.Sukhdev Singh Brar has expired in 2010. Hence, it is urged that at best title of respondent No.2 which is based on Power of Attorney gets extinguish on the death of Sh.Sukhdev Singh Brar and has ceased to be ineffective. He submits that the said Attorneys are not given for consideration.

5. The trial court by the impugned order noted that merely because Sh.Sukhdev Singh Brar who was impleaded as defendant No.3 in the suit has expired, the said subsequent developments would not defeat the right of the defendant No.2 to contest the case on merits.

6. I have heard the learned counsel for the petitioner and the DDA.

7. Essentially the submission of the petitioner is that respondent No.2 has not paid any consideration for the suit property and hence on the death of Sh.Sukhdev Singh Brar, there is no power of Attorney effective.

8. The trial court on an application under Order 1 Rule 10 CPC filed by respondent No.2 on 21.07.2011 impleaded him as defendant No.2. The original allottee Sh.Sukhdev Singh Brar was also impleaded as a party (as defendant No.3). On that date when this order was passed, Sh.Sukhdev Singh Brar had already expired.

9. It is admitted fact that the petitioner has not filed any appeal before the appellate court against the order dated 21.07.2011. Instead of challenging the said order dated 21.07.2011, the petitioner has filed the

present fresh application under Order 1 Rule 10 CPC. The trial court has rightly dismissed the application.

10. There is no merit in the present petition and the same is accordingly dismissed. All the pending applications are also dismissed.

JAYANT NATH, J.

JANUARY 16, 2017/v