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

Date of decision: 02nd May, 2018.

+ **CONT.CAS(C) 146/2018 & CM APPL. 7953/2018**

VIRENDER KUMAR SEHDEVA Appellant
Through: Mr. Vikram Sehdev & Mr. I.B.S.
Thokcham, Advocates.

versus

HEMA SEHGAL & ANR. Respondents
Through: Ms. Amita Gupta, Advocate.
(M-9810017035)
Mr. Rakesh Kumar Dudeja, Advocate
for R-2/SDMC. (M-9810147798)
SI Ajay Kumar, PS Rajouri Garden.
(M-9717697544)

CORAM:
JUSTICE PRATHIBA M. SINGH

Prathiba M. Singh, J. (Oral)

1. This is a contempt petition filed by the Petitioner on the ground that the Respondent No.1 Ms. Hema Sehgal has deliberately violated the orders of this Court.
2. Ms. Hema Sehgal is the grand-daughter of Ms. Surjit Kaur who was the Appellant in RFA 999/2016. In the said RFA, the following order was passed:

“CM APPL. 47115/2016 (exemption)

*Subject to the appellant filing the
certified/taped/legible copies of the documents annexed*

with the appeal within four weeks, the application is allowed and disposed of

CM APPL. 47116/2016 (for condonation of delay of 40 days in re-filing the appeal), CM APPL. 47114/2016 (stay) and CM APPL. 47113/2016 (U/O 41 R 27 CPC)

1. *Issue notice to the non-applicant/respondent on the appellant filing the process fee within one week, by ordinary process and speed post, returnable on 01.03.2017.*
2. *Subject to the appellant maintaining status quo with regard to the title, possession and construction of the suit premises, operation of the impugned judgment and decree shall remain stayed, till the next date of hearing.*
DASTI.

3. The said order continues to operate in the said RFA. All the parties in the said RFA 999/2016, including Ms. Hema Sehgal who is one of the Appellant's therein, were directed to maintain status quo in respect of title, possession and construction of the suit property. However, subsequent to the said order Ms. Hema Sehgal applied to the SDMC for mutation of the property in her favour, vide letter dated 8th June, 2017. The said letter reads as follows:

*“To,
The Asstt. Assessor & Collector,
South Delhi Municipal Corporation,
Ashok Nagar, New Delhi*

Subject:- Mutation of entire built-up freehold property bearing its Municipal No. V-26, area measuring 183 Square Yards, situated at Rajouri Garden, New Delhi-110027.

Sir,

It is to inform you that entire built-up freehold property bearing its Municipal No. V-26, area measuring 183 Square Yards, situated at Rajouri Garden, New Delhi-110027, to her real sister i.e. my real grandmother namely Smt. Surjit Rani W/o Shri Mohinder Pal, by virtue of Gift Deed dated 26th July, 1970.

My real grandmother Smt. Surjit Rani, during her life time, executed a WILL dated 05.03.2012 in respect of her entire built-up freehold property bearing its Municipal No. V-26, area measuring 183 Square Yards, situated at Rajouri Garden, New Delhi-110027, in favour of her son i.e. my father Raj Kumar S/o Late Shri Mohinder Pal.

The said Smt. Surjit Rani above named, subsequently expired on 13.10.2014, at New Delhi, leaving behind two nos, legal heirs namely Raj Kumar (Son), and Seema (Daughter).

After the death of Smt. Surjit Rani, the said Will dated 05.03.2012 came into effect and in the manner aforesaid, the said Shri Raj Kumar (my father) was become the actual and absolute owner of the above mentioned entire property, and other legal heirs of deceased owner Smt. Surjit Rani, i.e. her only daughter Seema had also relinquished/released all her rights, shares, titles and interests in respect of above mentioned entire property in favour of her only brother i.e. my father namely Raj Kumar, by virtue of Relinquishment Deed duly registered as Registration No. 14,328, in Book No.1, Vol. No.875, on page 116 to 120 on dated 28/09/2015, with the office of Sub-Registrar, SR IIB, Janakpuri, New Delhi/Delhi.

The said owner i.e. my father Shri Raj Kumar S/o Late Smt. Surjit Rani & Late Shri Mohinder Pal, had also expired on 08/09/2016, leaving behind his WILL dated

30/04/2016 (executed by himself during his life time), in/by which he had bequeathed his above mentioned entire built-up freehold property bearing its Municipal No. V-26, area measuring 183 Square Yards, situated at Rajouri Garden, New Delhi-110027, in the name of his one and only daughter i.e. myself the undersigned Miss Hema Sehgal. Legal Survival Member Certificate has also been applied in the office of concerned SDM in this regard.

After the death of Shri Raj Kumar, the said Will dated 30.04.2016 came into effect and in the manner aforesaid, I, the undersigned Miss Hema Sehgal, have become the actual and absolute (sole/exclusive) owner of entire built-up freehold property bearing its Municipal No. V-26, area measuring 183 Square Yards, situated at Rajouri Garden, New Delhi-110027, to the extent of FULL SHARE.

Now I hereby apply for Mutation of the above subject property in my own name as per law in the records of South Delhi Municipal Corporation, for which I am enclosing herewith the following documents for your ready reference:-

- 1. Indemnity Bond on a non-judicial stamp paper of Rs.100/- duly attested by Notary Public, Delhi.*
- 2. Affidavit on a non-judicial stamp paper of Rs.10/- duly attested by Notary Public, Delhi.*
- 3. Photocopy of Gift Deed dated 26/07/1970.*
- 4. Photocopy of Will dated 05/03/2012 executed by Smt. Surjit Rani.*
- 5. Death Certificate of Smt. Surjit Rani.*
- 6. Photocopy of Registered Relinquishment Deed dated 28/09/2015.*
- 7. Photocopy of Will dated 30/04/2016, executed by Shri Raj Kumar.*
- 8. Death Certificate of Shri Raj Kumar.*

9. Photocopy of House Tax Receipts.

10. Photocopies of previous sale deeds and all other related chain documents.

Please acknowledge the same and carry out the MUTATION of the above subject property in my own name and issue the MUTATION LETTER in my name and oblige. I am also willing to pay all the arrears of property taxes (if any) in respect of the above said property.

Thanking You,

Yours faithfully,

Encls. As Above

Dt.

(MISS HEMA SEHGAL)

*D/o Late Shri Raj Kumar
R/o V-26, Rajouri Garden,
New Delhi-110027"*

4. In the said letter, Ms. Hema Sehgal did not make any mention of the order passed in RFA 999/2016. She also concealed the pending litigation from the SDMC. She claimed that she was the only surviving member of Smt. Surjit Kaur and also submitted an indemnity to the following effect:

"And Whereas New Assessee is also in physical possession of the above said property and there is no dispute pending in any court of law. If any dispute may come up, the SDMC will not be a party for the same."

5. The present Contempt petition came to be filed by the Petitioner who is the son of Respondent no.1 in RFA 999/2016, Mrs. Raj Rani Sehdeva. On 28th February, 2018 when the Contempt petition was taken up for hearing, counsel for SDMC had entered appearance. Ld. Counsel submitted that the

SDMC was not aware of the order passed by this Court on 20th December, 2016. She further submitted that the SDMC had carried out the mutation on the basis of the representation made by Ms. Hema Sehgal. The said mutation was, however, cancelled on 16th February, 2018 pursuant to a representation made by the Petitioner. The said communication dated 16th February, 2018 reads as under: -.

“To,

*Ms. Hema Sehgal d/o late Sh. Raj Kumar
V-26, Rajouri Garden,
New Delhi- 110027*

*Sub: Cancellation of mutation of Property No. V-26,
Rajouri Garden, New Delhi.*

Madam,

I am directed to refer to this Office letter No. Tax/ SOUTH/WZ/MUT/2017-18/243/510, dated 11.10.17 vide which mutation was allowed in your favour in respect of property cited in subject.

In this regard, it has been brought to our notice that there was a court case regarding ownership of this property amongst the legal heirs & finally the suit was decreed in their favour vide order dated 19.08.2016 passed by the court of Ms. Kawari Baweja, ADJ Delhi, Tis Hazari Court. It has been further brought to our notice that in the Delhi High Court, Hon'ble Justice Hema Kohli has passed order dt. 20.12.16 to the legal heirs of the deceased Surjit Kaur to maintain status quo of title, possession and construction in respect of FF of the said property. Thus, it appeared that you have got the mutation of the above property done in your favour by suppression & concealment of material facts.

In view of the above, the competent authority has

cancelled the mutation in respect of the property cited in subject.

This issues with the approval of the Competent Authority.

*Sd/-
Asst. Assessor & Collector
West Zone”*

6. Learned counsel for SDMC was thereafter directed to file a short affidavit placing on record the facts and an affidavit of Mr. Ram Dutt, Joint Assessor & Collector West Zone, SDMC was filed on 14th March 2018 wherein it has been asserted by SDMC that the SDMC was not a party to the private litigation between the parties and was also not aware of the order dated 20th December, 2016.

7. In view of the stand of the SDMC that it was not aware of the status quo order passed by this Court, and since the mutation in favour of Ms. Hema Sehgal has now been cancelled by the SDMC vide letter dated 16th February 2018, no further orders are called for against the SDMC in this Petition. The affidavit filed on behalf of SDMC is taken on record and the SDMC is discharged in this contempt petition.

8. The allegations against Ms. Hema Sehgal are serious in nature. There is no doubt that she has clearly suppressed the orders passed by this Court in RFA 999/2016. The indemnity given by her to the SDMC is completely false, misleading and incorrect. Show cause notice was issued on 28th February, 2018, to Ms. Hema Sehgal as to why contempt action could not be taken against her. On the said date, the SDMC was also directed not to entertain any request for mutation or carried out any mutation. Status quo

was also be directed to maintain by all parties. Operative portion of the order dated 28th February, 2018 reads as under:

"SDMC shall not entertain any request for mutation or carry out any mutation. Status quo shall be maintained by all parties."

9. Pursuant to the notice issued in the present Contempt petition, Ms. Hema Sehgal is present in Court today. She is also stated to have filed an affidavit dated 01st May, 2018 to the effect that she has not entered into any transaction in respect of the suit property during the period when the property stood mutated in her name. The said affidavit is not on record and Ld. Counsel Ms. Amita Gupta submits that she will get the same placed on record. A copy of the affidavit has been handed over in Court by Ms. Gupta which has been perused. The statement of Ms. Hema Sehgal has also been recorded. She has tendered an unconditional apology to this Court.

10. In the main RFA 999/2016, a Local Commissioner was appointed on 19th march 2018, to inspect the suit property and submit a report. The Local Commissioner has inspected the suit property and has replaced the locks on the ground floor. It was the allegation of the Petitioner that the ground floor was in their possession but Ms. Hema Sehgal had changed the locks so that the Petitioner and other LR's of Raj Rani Sehdava could not use the same. The Local Commissioner, in her report has clearly stated that the locks in the property could not be opened with the keys given to her by the Petitioner and Ms. Hema Sehgal did not have the keys. The Local Commissioner had to therefore break open the locks and install new locks. The keys for the ground floor have been submitted in the Court. In view of the fact that possession of the ground floor has been secured and the keys have been

deposited and the fact that she has now also undertaken before this Court not to raise any construction and to maintain status quo as to title and possession, the Court accepts the apology tendered by Ms. Hema Sehgal.

11. The parties are directed to maintain status quo as per order dated 20th December, 2016. The SDMC is directed not to entertain any request for mutation or any other request to change the status of the suit property. The contempt petition is accordingly disposed of taking the undertakings and affidavit of Ms. Hema Sehgal on record and accepting the same. She shall be bound by the statements made by her as recorded in the Court today and as contained in her affidavit dated 1st May 2018. Any violation of the said statements or any orders passed by this Court would entail strict action. Her apology is being accepted in view of the remorse expressed by her and because it is unconditional. The original affidavit filed by Ms. Hema Sehgal on 1st May, 2018 may be traced and placed on record by the counsel for the Appellant.

12. Contempt petition is disposed of with the above observations. Pending application also stands disposed of.

**PRATHIBA M. SINGH
JUDGE**

MAY 02, 2018

Rekha