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

\+ W.P.(C) 3618/2017

KAILASH RANI RAWAL ..... Petitioner

Through: Mr Ajay Kumar Tandon and Mr Himanshu Dubey, Advocates.

versus

THE SUB REGISTRAR V (I) LAJPAT NAGAR IV, NEW DELHI & ANR ..... Respondents

Through: Ms Prabhsahay Kaur and Ms Aakanksha Badkur, Advocates for GNCTD.
Mr Narender Manu, Spl. PP. For CBI with Mr Manoj Pant, Advocate for R-3.

CORAM:
HON'BLE MR. JUSTICE VIBHU BAKHRU

O R D E R

% **18.12.2018**

CM No. 53478/2018

1. This is an application for advancement of date of hearing which is now scheduled on 22.04.2019. The petitioner is a lady of an advanced age and for the reasons stated in the application, the same is allowed. With the consent of the counsel, the petition is taken up for hearing.

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2. The petitioner has filed the present petition, *inter alia,* praying that directions be issued to respondent no.1 (Sub-Registrar) to deliver the registered sale deed relating to property bearing No. H-8, Second Floor,

Kailash Colony, New Delhi (hereafter 'the Property').

3. The petitioner had purchased the Property from respondent no.2 on 19.09.2016 for a total consideration of ₹2,35,00,000/-. The sale deed was duly executed and was presented for registration at the office of respondent no.1 on the said date.

4. The petitioner's grievance stems from the fact that although the petitioner had completed the transaction, the registered sale deed for the Property has not been delivered to the petitioner.

5. There is no dispute that the petitioner had paid the entire consideration for the Property through banking channels. However, respondent no.1 has withheld the registration of the sale deed pursuant to the request made by the Central Bureau of Investigation (CBI) in terms of letter dated 12.09.2016.

6. CBI has filed a counter affidavit indicating that a complaint was filed by the DGM, Syndicate Bank alleging that a fraud had been committed by certain officials and group of customers of the bank (Syndicate Bank) by resorting to discounting of fake/forged cheques and arranging an overdraft limits against forged LIC policies. Consequently, an FIR was registered against several persons, which also include Sh. Desh Raj Meena, an employee of Syndicate Bank, who was posted at the Malviya Nagar Branch, Jaipur during the material time. Respondent no.2 is the wife of Sh. Desh Raj Meena and it is alleged that she had purchased the Property (H-8, Second Floor, Kailash Colony, New Delhi) at a consideration of ₹1,85,00,000/-, which was funded partly out of the funds obtained on account of the

fraudulent acts of Sh. Desh Raj Meena. Respondent no.2 had funded part of the cost of the Property by availing a housing loan (a sum of ₹90 lacs) from HDFC Bank Ltd. The said loan has since been repaid by her.

7. The counter affidavit also indicates that out of the consideration received by respondent no.2, a sum of ₹1,30,00,000/- was transferred (indirectly) to the account of M/s Sanjay & Co. which is owned by one Sh. Sanjay Damani. Sh. Damani had also admitted the receipt of a sum of ₹2,00,00,000/- from respondent no.2 as a deposit on interest.

8. Mr Manu, learned counsel appearing for the CBI has confirmed that the said amounts have been attached in the hands of Mr Sanjay Damani.

9. It is apparent from the above that there is no allegation of any wrongdoing against the petitioner. It is also clear that she has acquired the Property for valuable consideration. Undisputedly, no order has been passed passed by any authority attaching the Property prior to its sale to the petitioner. Although, it is stated in the counter affidavit filed on behalf of the CBI that the CBI and the Enforcement Directorate have power to seize properties under Section 102 Cr.P.C., this Court has reservation as to the aforesaid contention. However, it is not necessary for this Court to examine this contention, as the CBI had produced no such order for seizure of the Property and, undisputedly, no such order exits. The letter dated 12.09.2016 merely requests respondent not to register the sale deed in respect of the Property without intimation and permission. This Court is at a loss to understand that under what provisions of law such a request has been made. It is, plainly, not binding on the petitioner or respondent no.1

10. Since, there is no valid order attaching the Property in the proceedings pending against the petitioner, the action of respondent no.1 in withholding the registration of the sale deed is wholly unsustainable. The transaction for purchase of the Property is complete and the petitioner has acquired the title to the Property for good and valuable consideration. Therefore, irrespective of the allegations against respondent no.2 or her husband, the petitioner cannot be deprived of the title to her property.

11. In view of the above, the petition is allowed and respondent no.1 is directed to register the sale deed of the Property and deliver the same to the petitioner within a period of one week from today.

12. Order *dasti* under signatures of the Court Master.

VIBHU BAKHRU, J

DECEMBER 18, 2018
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