

\$~8

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

Decided on: 17th July, 2018

+ CRL.MC. 2010/2015 & CRL.M.A.7190-7191/2015

JAGPAL YADAV

..... Petitioner

Through: Mr. Pardeep Gupta, Advocate with
Mr. Parinav Gupta, Ms. Mansi
Gupta & Mr. Muazzam Ali,
Advocates

versus

RAI SINGH & ORS.

..... Respondents

Through: Mr. Pankaj Kumar, Advocate for
R-1.

CORAM:

HON'BLE MR. JUSTICE R.K.GAUBA

ORDER (ORAL)

1. The petitioner had filed a criminal case (CC No.254/3) on 16.12.2008 against the respondents seeking their prosecution for offences punishable under Sections 406/420/468/471/120-B of the Indian Penal Code, 1860 (IPC). The Metropolitan Magistrate held inquiry into the said complaint case, in the course of which evidence was adduced by him by examining five witnesses including himself. The said evidence was considered but, by order dated 12.03.2013, the magistrate formed a view that the allegations made out a dispute of civil nature on which no criminal action could be brought and, thus, the complaint was dismissed.

2. The said order was challenged by the petitioner in the court of Sessions invoking its revisional jurisdiction (CR No.34/2014, old No.69/2013). The petition was dismissed by the court of Sessions by order dated 27.01.2015, upholding the view taken by the magistrate.

3. Feeling aggrieved with the orders of the two courts below, the present petition was filed invoking inherent jurisdiction of this court under Section 482 of the Code of Criminal Procedure, 1973 (Cr.P.C.).

4. The petitioner claims to have purchased built-up property bearing municipal No.RZ-14, (old plot No.45) over a plot of land admeasuring 70.66 sq. yds., forming part of Khasra No.289, situated in the Abadi, Deh, Old Lal Dora of village Sayed Nangloi, Delhi for consideration from the first respondent by a registered sale deed dated 02.08.2006. He would point out that in the said sale deed, the vendor (the first respondent) had held out the assurance that the property was free from all encumbrances and further that if the property were to go out of the possession of the vendee (the petitioner) due to any defect in the title of the vendor then the vendor would be liable and responsible for all consequences, loss, damages, etc. It is alleged that on 04.07.2006, the fourth respondent – real brother of the petitioner – had instituted a civil suit (Suit No.1078/2006) against the second respondent – mother of the vendor (first respondent) for permanent injunction, *inter alia*, claiming that she was the owner-cum-landlady of the aforementioned property described in the pleadings as RZ-14, Sayed

Village, Paschim Vihar, New Delhi wherein he, the plaintiff (the fourth respondent) was a lawful tenant. Alleging that an illegal threat of dispossession had been extended, he prayed for permanent injunction against the defendant (the second respondent) so as to restrain her from forcibly dispossessing him from the said property without due process of law. It is submitted that on 07.07.2006 the second respondent had appeared before the civil Judge in the said suit and, through counsel, had made a submission that she did not have any intention to dispossess the fourth respondent from the subject property without due process of law in which view the temporary injunction was granted.

5. *Inter alia*, against the above background, the grievance has been raised in the criminal complaint that after execution of the sale deed the first respondent had failed to hand over the vacant possession of the property which had been sold deferring this, from time to time, on some pretext or the other. It is his allegations that the fourth respondent, his own brother, had conspired with other respondents to create fabricated story about the occupation of the said fourth respondent in part of the premises which was subject-matter of the sale deed.

6. Against the above backdrop, this court finds the view taken by the courts below to be correct. The dispute essentially is civil in nature to which attempt has been made to give a colour of criminality. The consistent view taken by the court of magistrate and the court of sessions in revision does not call for any interference.

7. The petition is dismissed.
8. This disposes of pending applications as well.

R.K.GAUBA, J.

JULY 17, 2018

vk

