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

+ **W.P.(C) 12834/2018 and CM APPL. 49781/2018**

ARUN SURI

..... Petitioner

Through: Mr Shubhankar Jha, Advocate.

versus

SUB-REGISTRAR VI-A & ANR.

..... Respondents

Through: Mr Rishikesh and Mr Premsagar Pal,
Advocates for R-1.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

ORDER

% **30.11.2018**

1. Issue notice.
2. The learned counsel appearing for the respondents accepts notice.
3. The petitioner has filed the present petition impugning an order dated 25.09.2018 passed by the Deputy Commissioner/District Magistrate, North-West, Kanjhawala whereby the petitioner's appeal against an order dated 27.10.2017 passed by the Sub-Registrar, VI-A, Pitam Pura was rejected.
4. The controversy in the present case relates to the petitioner's endeavour to register a sale deed in respect of the third floor of the property bearing No. 255, Sainik Vihar, Pitam Pura, New Delhi (hereafter 'the said property'). The said property was attached by the Enforcement Directorate to the extent of 50% and, therefore, the Sub-Registrar had declined to register any sale deed in respect of the said property.
5. Aggrieved by the same, the petitioner had filed the writ petition (Writ

Petition No. 9003/2017). It was pointed out that the petitioner desires to sale, part of the said property to repay the loans availed from India Bulls Housing Finance Limited. The said writ petition was disposed of by an order dated 10.04.2018. The operative part of the said order is set out below:-

“7. Accordingly, the respondents are directed to issue a ‘No Objection Certificate’ (NOC) to the Sub Registrar VI-A, Pitampura, Ambedkar Bhawan, Sector- 16, Rohini, New Delhi with respect to the second and third floor including roof rights of the subject property. The NOC will indicate that the respondents have no objection if the concerned Sub Registrar registers the sale transaction vis.-a-vis. The said portion of the subject property.

8. Mr. Mahajan says that the needful will be done within two weeks from the date of receipt of a copy of the order.”

6. In compliance with the aforesaid order, the Enforcement Directorate issue a ‘No Objection Certificate’ dated 26.04.2018, the relevant extract of which reads as under:-

“.....If the sale deeds in respect of the two Floors of the said property namely second and third floors are registered in the name of the buyers. However, it is emphasized that the ground and first floor of the said property with parking lights etc. vests completely in the name of Arun Suri and no modification whatsoever be allowed which may alter the lien on the said portion as the same stands attached under the provisions of PMLA. You may therefore register the sale deeds in respect of the remaining two floors i.e the 2nd and 3rd floors of the property no. 255. Sainik Vihar, New Delhi-110034.”

7. In view of the above, the petitioner once again approached the Sub-Registrar for registration of the third floor of the said property in favour of the buyer. It is the petitioner’s case that at that stage, he was informed that

Sub-Registrar had already passed order dated 27.10.2017 refusing to register the said sale deed. This led the petitioner to file an appeal before the Registrar against the said order. The said appeal was rejected by the impugned order dated 25.09.2018.

8. It appears from the plain reading of the impugned order, the petitioner's appeal had been rejected on the ground that it was not filed within the period of thirty days from the date of the order dated 27.10.2017.

9. It is the petitioner's case that the said order dated 27.10.2017 was neither served on the petitioner nor on the buyer and, therefore, the impugned order is erroneous.

10. A perusal of the impugned order also indicates that the petitioner's appeal has been rejected on the ground that NOC submitted by the petitioner was not from the concerned authority. According to respondent no.1, the same was required to be issued by the Deputy Director, Directorate of Enforcement, Delhi Zone but the NOC was issued by the Deputy Director, Enforcement of Directorate.

11. This Court finds the reasons for rejecting the appeal as unsubstantial. There is no material on record to show that the order dated 27.10.2017 passed by the Sub-Registrar was, in fact, served on the petitioner. The impugned order proceeds on the basis that the petitioner was aware of the order and, therefore, there was no question of receiving/serving the refusal order dated 27.10.2017.

12. Even if it is accepted that the petitioner was served with the refusal order, it is apparent that the reason for refusal was the unavailability of NOC from the Enforcement Directorate. Once the NOC had been issued, there

was no impediment for the Sub-Registrar to then register the sale deed.

13. The contention that the NOC should have been issued by the Deputy Director, Directorate of Enforcement, Delhi Zone and not by Deputy Director, Directorate of Enforcement, is also not material. The said NOC was issued pursuant to the orders passed by this Court and, thus, there is no question of challenging the authority of the officer issuing the said NOC.

14. In view of the above, the order dated 27.10.2017 passed by Sub Registrar VI-A, Pitampura, Ambedkar Bhawan, Sector- 16, Rohini, New Delhi and the impugned order dated 25.09.2018, are set aside. The Sub-Registrar shall process the petitioner's request for registration of the deed relating to the Third Floor of the property in question in accordance with law and not on the basis of the NOC issued by the Enforcement Directorate.

15. The petition and the pending application are disposed of.

16. Order *dasti*.

VIBHU BAKHRU, J

NOVEMBER 30, 2018
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