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

+ **W.P.(C) 13172/2018 & C.M.No.51122/2018 (stay)**

SMT. MONA

..... Petitioner

Through: Mr.Sanjeev Bhandari, Adv. with
Ms.Priyadarshini Verma, Mr.Kunal Dewan, Advs.

Versus

CANARA BANK AND ANR.

..... Respondents

Through: None.

CORAM:

HON'BLE THE CHIEF JUSTICE

HON'BLE MR. JUSTICE V. KAMESWAR RAO

ORDER

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05.12.2018

C.M.No.51123/2018 (exemptions)

Allowed, subject to all just exceptions.

W.P.(C) 13172/2018

1. The petitioner herein is aggrieved by an order passed by the Recovery Officer with regard to taking over possession through a Receiver and sale of property bearing Plot No.83, Block No.7-B, Basti Rehnagar, Karol Bagh, New Delhi. It is the case of the petitioner that some times in the year 2016, she came to know about the sale of the subject property and, therefore, immediately thereafter filed objection before the Recovery Officer. It is the case of the petitioner that the said property was allotted to one Sh.Hira Lal vide lease deed dated 10th April, 1974 by the DDA. Sh.Hira Lal transferred

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the right, title and possession of the subject property in favour of Mrs. Kinno Devi and Mrs. Bimla Devi vide sale deed dated 12th September, 1986. Kinno Devi passed away intestate leaving behind legal heirs which included the petitioner, her sisters and brothers. It is stated that Kinno Devi did not leave behind any Will and, therefore, the entire property was to be divided amongst the 6 legal heirs in equal shares and the petitioner would be entitled to 1/6th share of the property in question. However, it is stated that in the year 2003 one of the brothers, Sunil Pawar executed the relinquishment deed in favour of respondent No.2, Daler Singh Panwar, another brother of the petitioner, thereby relinquishing his 1/6th share of the property in the name of respondent No.2. However, it is stated that in the said relinquishment deed, both Sunil Pawar and Daler Singh Panwar claimed themselves to be the sole legal heirs and did not disclose the name of the other persons, like the petitioner who had shares in the property. Based on the relinquishment deed, it is said that respondent No.2 mortgaged the property with the Bank and took loan. The bank initiated the proceedings for recovery in January, 2009 and, thereafter the recovery proceedings were initiated and the petitioner raised objections before the Recovery Officer which having been dismissed, appeal was filed which has also been dismissed and therefore this petition.

2. The Courts below has considered the aforesaid and the findings recorded concurrently by the Recovery Officer and the Tribunal are that the petitioner knew about the act of their brothers and it is only to help the brothers and for preventing them from repaying the amount taken, the device has been adopted for delaying the proceedings. The appeal filed by

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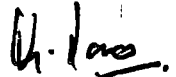
the DRAT also have been dismissed.

3. In view of the fact that the action has been taken based on the findings of fact as is recorded hereinabove in accordance with law, concurrently by all the Authorities and Tribunal, we see no reason to make any indulgence into the matter.

4. The appeal, therefore, stands dismissed.



CHIEF JUSTICE



V. KAMESWAR RAO, J

DECEMBER 05, 2018

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