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

+ **W.P.(CRL) 481/2018**

NARENDER KUMAR SHARMA

..... Petitioner

Represented by: **Mr. Shesh Datt Sharma, Advocate.**

versus

UNION OF INDIA AND ORS

..... Respondent

Represented by: **Ms. Nandita Rao, ASC for Mr. R.S. Kundu, ASC for the State with Mr. Bhagat Singh, Advocate.**
Ms. Monika Arora, CGSC with Mr. Harsh Ahuja, Advocate for R-1.
Mr. Ajay Mirza, Advocate for R-5 and 6.

CORAM:

HON'BLE MS. JUSTICE MUKTA GUPTA

ORDER

12.02.2019

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1. Proof of deposit of cost as imposed vide order dated 4th September, 2018 has been handed over which is taken on record.

2. By this petition, the petitioner inter-alia prays:-

A) To direct the respondent Nos. 1 to 3 to provide the protection to the petitioner, his family and their property as shown above and take legal and appropriate action against respondent Nos. 4, 5 and 6 and their gang in the case in hand.

B) To direct the respondent No. 3 and 4 to lodge the F.I.R. of the said 'Broad day Dacoity' committed in the house of the petitioner on 27-01-2018 and take immediate legal action against their accused persons along with

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immediate arrests of the accused persons involved therein.

C) To direct the respondent No. 1 & 2 to take disciplinary actions against their officials who have committed gross negligence in discharge of their duties in the said episode.

D) To direct the respondents jointly and severally to pay the compensation to the tune of ₹50 lakhs only to the aggrieved petitioner and his family for the losses sustained in the incident of dated 27-01-2018 and for the period under which they passed their days in horror and tension created and continued by the respondent No. 5 and 6 and their gang under the shelter given by the respondent No. 4 for his vested interest.

E) To hand over the aforesaid case to the CBI for investigation and proper legal action against the wrong doers.

3. Petitioner basis his case on the complaint dated 17th July, 2017 to the DCP Central District wherein he besides the other complainant alleged that they have been residing at H. No. 2014, Gali Raja Uggarsain, near Lal Darwaza, Sita Ram Bazar, Delhi for the last 70 years and from there own money they have been carrying out the repairs and making the house a pakka house. It is alleged that one builder, namely, Ankit Bhagat son of Pooran Bhagat resident of Churiwalan along with his associates wants to occupy the house unauthorizedly and remove the occupants of the house. It is stated that on 17th July, 2017 at around 5:00 P.M. the said person along with others came and threatened them to vacate the house. Thus, the petitioner seeks protection/registration of FIR and proper investigation.

4. A reply affidavit has been filed by respondent Nos. 5 and 6 according to which respondent No. 6 the owner of the property and

has already filed an eviction petition against the petitioner, who has filed a Suit for declaration and thus civil proceedings between the parties are going on.

5. As per status report on 27th January, 2018 at 14:10 hrs a PCR call was received which was recorded vide DD No. 15-A at PS Hauz Qazi regarding quarrel at H. No. 2014, Gali Raja Uggarsain, Sita Ram Bazar ASI Sunil Kumar was entrusted with the call and when he reached the spot, he found crowd gathered there. Petitioner's son, namely, Devesh Kumar Sharma, Asha Sharma and Shilpa Sharma were also present. During enquiry it was revealed that the petitioner has been residing at 1st floor of the house for the last around 60 years and Ms. Poonam Babbar was residing in a portion adjacent to the petitioner. The property in question is a two-story building purportedly purchased by Puran Chand on 28th February, 2012 from his erstwhile owner, namely, Arun Kumar Goyal through a sale deed. Though Poonam Babbar vacated the premises and executed a surrender deed, however, petitioner is not vacating the premises and is not allowing new tenants to enter into the premises.

6. On 27th January, 2018 son of Puran Chand had gone to the premises with a new tenant, namely, Sunita with respect to the portion vacated by Poonam Babbar pursuant where to a scuffle started. Injury on Devesh Kumar Sharma was opined to be simple and as per the MLC of Shilpa Sharma no-external injury was found. Even injury to Asha Sharma was opined to be simple in nature. Nature of injuries being simple and Ankit purportedly having gone to give the premises to new tenant no cognizable offence is made out and thus no directions to register FIR can be given by this

Court as Section 323 IPC is a non-cognizable offence and the petitioner has the remedy of filing a complaint case. As regards the civil disputes remedies have been taken by the parties.

7. Thus, if the petitioner has any grievance with regard to the incident dated 27th January, 2018 on which simple injury was received by his son and daughter-in-law in the scuffle, he would be at liberty to file a complaint case before the learned Metropolitan Magistrate.

8. Petition is dismissed.

MUKTA GUPTA, J.

FEBRUARY 12, 2019
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