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

Date of Decision: 15.12.2020

+ LPA 353/2020

MALTI DEVI

..... Appellant

Through: Mr. V.P. Rana, Adv.

versus

NAVEEN CHAUHAN & ORS.

..... Respondents

Through: Mr. Lohit Ganguly & Mr. Ajay Kumar, Advs. for R-1.

Mr. Anjum Javed, ASC, GNCTD with Mr. Faran Ahmed & Mr. Devender Verma, Advs. for R-2 to 6.

CORAM:

HON'BLE THE CHIEF JUSTICE

HON'BLE MR. JUSTICE PRATEEK JALAN

D.N. PATEL, Chief Justice (Oral)

Proceedings in the matter have been conducted through video conferencing.

CM APPL.30105/2020 (exemption)

Allowed, subject to just exceptions.

LPA 353/2020 & CM APPL.30104/2020 (stay)

1. This appeal has been preferred by the original respondent No.6 in W.P.(C) 8565/2020. This appellant is aggrieved by an order passed by the learned Single Judge dated 02.11.2020 in W.P.(C) 8565/2020 (Annexure A-1 to the memo of this LPA).
2. Learned counsel for the appellant submitted that there is a sale deed

dated 05.08.2015 in favour of this appellant. The same was executed by father of the petitioner and 15 others in favour of respondent No.6 in the writ petition.

3. It is further submitted by the learned counsel for the appellant that initially, the said sale deed was not registered and hence a writ petition was preferred and as per the order of this Court, ultimately the respondent – Government registered the same on 24.10.2017.

4. It is further submitted by the learned counsel for the appellant that mutation entry was also carried out in favour of this appellant (original respondent No.6), in the Revenue entries on 31.12.2019. Later, the Revenue entry was cancelled on 14.10.2020, whereupon necessary application shall be preferred by this appellant in accordance with the Revenue laws.

5. It is further submitted by the learned counsel for the appellant (original respondent No.6) besides the registered sale deed in favour of the respondent No.6, the possession of the property in question is also with her and therefore the observations of the learned Single Judge in paragraph 8 of the impugned order was not required at all. He submits that status quo ought to be maintained with regard to the possession and the ownership of the property in question but the further direction given in paragraph 8 of the impugned order is not required at this stage.

6. It is further submitted by the learned counsel for the appellant that CM APPL.28899/2020 has already been preferred by this appellant (original respondent No.6) in W.P.(C) 8565/2020, for recalling of the order of the learned Single Judge dated 02.11.2020 (Annexure A-1 to the memo of this LPA). The same has been listed on 23.03.2021. Thus, he submitted that status quo may be maintained with regard to the ownership and possession

of the property in question, without giving effect to the direction given in paragraph 8 of the impugned order till the next date of hearing in this LPA or till the disposal of CM APPL.28899/2020 in W.P.(C) 8565/2020.

7. Learned counsel appearing for the respondent No.1 (original petitioner) submitted that the possession of the property is with the original petitioner, therefore, no error has been committed by the learned Single Judge in giving directions in paragraphs 7 and 8 of the impugned order.

8. It is further submitted by the learned counsel for the respondent No.1 that the application preferred by this appellant being CM APPL.28899/2020 is already pending before the learned Single Judge in the pending writ petition. Hence, he argued that this LPA may not be entertained by this Court.

9. Having heard learned counsel for the parties, it appears that status quo with regard to the ownership and possession of the property in question may be maintained as per the direction given by the learned Single Judge in paragraph 7 of the impugned order. For the ready reference, paragraphs 7 and 8 of the impugned order reads as under:

“7. In view of the above, status quo shall be maintained apropos the mutation as well as physical possession.

8. The SHO of the area concerned shall ensure that the petitioner's possession of the lands is not be disturbed.

(emphasis supplied)”

Thus, in view of the aforesaid observations of the learned Single Judge in paragraphs 7 and 8 of the impugned order, it appears that status quo with regard to the ownership and possession of the property in question is to be maintained. An application has already been preferred by this appellant

being CM APPL.28899/2020 in the pending writ petition before the learned Single Judge for recalling of the order dated 02.11.2020.

10. In view of the above, the directions given in paragraph 8 of the impugned order shall not be given effect to till the said CM APPL.28899/2020 (preferred by this appellant) in W.P.(C) 8565/2020 is decided by the learned Single Judge. Rest of the observations of the learned Single Judge shall be maintained as they are, meaning thereby that there shall be status quo with regard to the ownership and possession of the property in question, which will be maintained by both the sides to this litigation.

11. As and when any application is to be decided by the Revenue authorities for the mutation entry in question, especially because Revenue authorities have cancelled the earlier mutation entry, the same will be decided by the Revenue authorities in accordance with law, rules, regulations and on the basis of the evidences on record and without being influenced by the observations of this Court in the order passed in this LPA, or by the observations of the learned Single Judge in the order passed in W.P.(C) 8565/2020.

12. With these observations, this Letters Patent Appeal is thereby disposed of. The pending application also stands disposed of.

CHIEF JUSTICE

PRATEEK JALAN, J

DECEMBER 15, 2020/kks