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IN THE HIGH COURT OF DELHI AT NEW DELHI

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W.P.(CRL) 798/2020 and Crl.M.A.Nos.6202/2020, 6472/2020

ASHISH BHALLA

..... Petitioner

Through : Mr.Akhil Sachar and Ms.Sunanda
Tulsyan, Advocates.

versus

STATE (GOVT OF NCT OF DELHI) & ORS Respondents

Through : Mr.Rajesh Mahajan, ASC for the
State/Respondents No.1 & 2.
Mr.Pradeep, Advocate for respondent
No.3 with R3 in person.

CORAM:

HON'BLE MR. JUSTICE YOGESH KHANNA

ORDER

% **29.05.2020**

1. The hearing has been conducted through Video Conferencing.
2. In the order dated 11.05.2020 certain allegations were made by respondent No.3 against the petitioner stating *inter alia* he has given an undertaking before the learned SEM that he would not stay in the subject premises and that there were allegations of beatings by a bat and administration of phenyl to respondent No.3. Further, FIR under Section 323/325 IPC was also got registered against him and he remained in judicial custody for five days.
3. All these allegations were denied by the learned counsel for petitioner and he intended to file a reply and hence the matter was listed for 06.07.2020.
4. Later, Crl.M.A.No.6472/2020 was moved by petitioner for urgent relief as the petitioner intended to bring on record certain

facts and documents which he could not bring on record earlier. The notice was issued on this application and respondent No.3 intended to file reply. The application was listed for today.

5. With the consent of learned counsel for parties, though the writ petition is listed for 06.07.2020, but is also taken up for hearing along with Crl.M.A.No.6472/2020.

6. Reply filed by respondent No.3 is also on record so also on behalf of the Delhi Police.

7. The petitioner sought relief mainly against respondents No.1 & 2 not to cause any obstruction in the unfettered and unrestricted right of the petitioner to reside in flat No.997-GH-5/7, Sunder Vihar, Paschim Vihar, Delhi as also directing the respondents No.1 & 2 not to permit respondent No.3 to cause any obstruction in his unfettered and unrestricted right to reside in the said premises.

8. The status report has been filed on behalf of the respondents No.1 & 2 stating *inter alia* the police has *no role* either in dispossessing the petitioner from the premises in question nor in any manner creating any hindrance in his residing in said house at any point of time. The learned ASC also affirms this stand of respondents No.1 & 2 by making such submissions.

9. The house in question admittedly, is in the name of petitioner who had purchased it vide sale deed dated 17.10.2012. This

avermment is though denied by respondent No.3 on the ground she had paid the entire consideration through loans etc. No document is however filed by respondent No.3 to support such contention nor qua undertaking given by the petitioner before the learned SEM and neither any FIR, *much less* under Section 323/325 IPC etc was ever registered against the petitioner. Rather on record the petitioner had filed his MLC dated 11.02.2020. The status report of respondents No.1 & 2 *interalia* notes as under:-

*“6. It is stated that the Respondent No.3 has filed various complaints in Police Station Paschim Vihar West (Mianwali Nagar) including vide DD No.64B dated 03.03.2015, DD No.44B dated 05.06.2016 wherein Respondent No.3 alleged that she had been subjected to domestic violence and mental harassment by the petitioner. It is however stated that in respect of most of these complaints, it is mentioned therein ‘Intimation for records only’ and that no PCR call has been made in respect of any of the incident mentioned in the said complaints. Further, it is also submitted that no MLC has been made with regard to the alleged acts of domestic violence in the aforementioned complaints. A complaint vide DD No.41B dated 29.04.2020 was also made by Respondent No.3 alleging that she was told by her neighbours that the petitioner along with 2- 3 other persons had come in a vehicle and tried to enter in the house by breaking open the locks. **All the aforementioned complaints were duly filed as either because the parties settled their disputes and differences between them with the intervention of family members or because otherwise too, no police action was called for.**”*

10. These allegations and counter allegations by the parties against each other cannot be looked into without leading any evidence and hence, cannot be agitated in this writ.

11. Keeping the issue of *ownership* of flat in question, the learned counsel for petitioner intends to withdraw the petition on the

submission above of the learned ASC for the State. It is rather submitted by him that he would install the CCTV cameras in every nook and corner of the flat in question in order to obviate any disputes, quarrels or false implication. The petitioner assures too of behaving peacefully.

12. In view of above, the petition is dismissed as withdrawn in view of submissions of the learned ASC for State. The pending applications are also dismissed.

13. Needless to say this order shall not debar either side to claim and assert their rights in the subject premises or otherwise; by availing appropriate remedies under law.

14. The earlier date fixed i.e. 06.07.2020 stands cancelled. No order as to costs.

YOGESH KHANNA, J.

MAY 29, 2020

DU/M