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

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Date of Decision: 2nd November, 2020

+ LPA 190/2020 & C.M.No.17512/2020 (addl. docs.)

SHAKINA

..... Appellant

Through: Mr.Rajive Bhalla, Adv. with
Mr.Khowaja Siddiqui, Adv. with Mr.Ashwini
Kumar, Mr.Arup Sinha, Advs.

Versus

DELHI DEVELOPMENT AUTHORITY

..... Respondent

Through: Mr.Rajeev Bansal, Sr. Adv. with
Mr.Arun Birbal, Advocate

CORAM:

HON'BLE THE CHIEF JUSTICE

HON'BLE MR. JUSTICE PRATEEK JALAN

JUDGMENT

: **D.N.PATEL, Chief Justice (Oral)**

Proceedings in the matter have been conducted through video conferencing.

1. This appeal has been preferred by the original petitioner in W.P.(C) No.3390/2020. The appellant is aggrieved by order dated 16th July, 2020 (Annexure A-2 to the memo of this appeal) passed by the learned Single Judge in W.P.(C) No.3390/2020.

2. Having heard the learned counsel for the parties and looking to the facts and circumstances of the case, it appears that the appellant is claiming to be the owner of the property in question which is land bearing No.T-2, Vill. Begumpur, Malviya Nagar, New Delhi forming part of Khasra No. 110 (Old Khasra No. 222/60). The appellant had previously preferred a Suit

being C.S No.809/1997 which was withdrawn by the appellant. Thereafter, the appellant preferred another Suit, being C.S. SCJ No.82902/2016, which was dismissed vide judgment and order dated 20th February, 2018. Being aggrieved by this order dated 20th February, 2018, the appellant preferred RCA No.18/2018 before the Additional District Judge-01, South district, Saket Court, New Delhi.

3. It also appears from the facts of the case that a stay application was also preferred by the appellant in RCA No.18/2018 which was dismissed vide order dated 2nd March, 2020 wherein it has been observed by the appellate Court that the appellant was protected by order of this Court dated 23rd April, 2019 in W.P.(C) No.4649/2017.

4. It is submitted by the learned counsel for the appellant that the effect of the impugned order dated 16th July, 2020 in W.P.(C) No. 3390/2020 is that this appellant was not in fact protected by the order dated 23rd April, 2019 in W.P.(C) No.4649/2017, as observed by the learned appellate Court in the order dated 2nd March, 2020. It is, therefore, submitted that the stay application was wrongly rejected vide the order dated 2nd March, 2020. Hence, the appellant is praying that she may be permitted to prefer fresh stay application in RCA No.18/2018 notwithstanding the order dated 2nd March, 2020 passed by Additional District Judge-01, South district, Saket Court, New Delhi.

5. In view of the aforesaid facts and circumstances of the case, we are in full agreement with the reasons given by the learned Single Judge in the impugned order dated 16th July, 2020 to the effect that the judgment of this Court dated 23rd April, 2019 in W.P.(C) No. 4649/2017 did not require the Special Task Force to give a hearing to the appellant herein. No error has

been committed by the learned Single Judge in so holding while deciding W.P.(C) No.3390/2020 vide judgment and order dated 16th July, 2020.

6. As the Appellant has not yet established any right in the property, and this question remains pending in RCA No. 18/2018, we see no reason to interfere with the impugned order passed by the learned Single Judge. However, liberty is reserved with the appellant to prefer a fresh stay application in the pending RCA No.18/2018 before the Saket Courts, New Delhi. In the meanwhile, status quo shall be maintained with regard to the possession of the property in question till 5:00 p.m. on 12th November, 2020. It is made clear that we have not adjudicated upon any other question in this appeal, and the application to be filed by the Appellant, as well as the pending appeal, will be decided by the appellate Court on their own merits in accordance with law.

7. With these observations, this appeal is disposed of along with the pending application.

CHIEF JUSTICE

PRATEEK JALAN, J

NOVEMBER 02, 2020
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