



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

+ **Date of Decision: 30.09.2021**

% **W.P.(C) 11171/2021 & C.M. Nos. 34385/2021**

KIRAN PAL SINGH TYAGI

..... Petitioner

Through: Mr. Anjani Kumar Mishra, Adv.

Versus

MANOJ KUMAR AND ORS.

..... Respondents

Through: Mr. T.P. Singh Senior Central
Government Counsel for
Respondent No. 9/ UOI-L&DO
Ms. Mrinalini Sen Gupta and
Nihaarika Jauhari Advocates for
Respondent No. 10/DDA
Anjum Javed ASC GNCTD with
Devendra Kumar, Faran Ahmed,
Ms Priti Advocates for
Respondent-No. 11 & 14

CORAM:

HON'BLE MR. JUSTICE VIPIN SANGHI

HON'BLE MR. JUSTICE JASMEET SINGH

VIPIN SANGHI, J. (ORAL)

1. The petitioner has preferred the present writ petition to seek a declaration that the sale deed executed in favour of one Mr. Shyam Mishra on 03.09.2016 registered in the office of the Sub Registrar VIII, Preet Vihar, Delhi vide document No. 4623, Book No. 1, Volume-865, registered at pages 232-240 be declared null and void. The petitioner also seeks a declaration that the order dated 05.10.2015 passed by this Court in W.P.(C) No. 879/ 2015 in a nullity, having been obtained by fraud played upon the Court. The petitioner seeks imposition of heavy penalty on the writ petitioners in the aforesaid writ petition for misleading this Court, and also to take appropriate action against them in accordance with law.

2. A perusal of the writ petition shows that the petitioner is raising disputed questions of fact. In fact, the *locus standi* of the petitioner to seek the

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reliefs as sought in the writ petition is also not clear. The relief that the petitioner seeks for a declaration that the aforesaid sale deed is null and void cannot be sought in these writ proceedings and, in our view, even if the petitioner has any *locus standi* to assail the said sale deed, it is for the petitioner to take such other remedy in that regard, as may be available in law.

3. So far as the relief sought with regard to the order dated 05.10.2015 in W.P.(C) No. 879/2015 is concerned, a perusal of the same shows that the Court was dealing with a writ petition preferred by the petitioners therein, premised on Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition Rehabilitation and Resettlement Act, 2013. This petition was allowed by the Court, premised upon the position of law as it existed prior to the decision of the Constitution Bench of the Supreme Court of India in ***Indore Development Authority v. Manoharlal and Others***, (2020) 8 SCC 129. Following the decisions, inter alia, in ***Pune Municipal Corporation & Anr v Harakchand Misrimal Solanki & Ors***, (2014) 3 SCC 183, the writ petition was allowed and a declaration was issued that the acquisition proceedings initiated under the Land Acquisition Act, 1894 in respect of the subject land are deemed to have lapsed.

4. The case of the petitioner is that the said order was obtained on a false premise. It is well settled that it is not permissible to assail a judicial order passed in a writ petition by a High Court, by filing a separate writ petition. Such a writ petition would not be maintainable. We may refer to the judgment of the Supreme Court in ***Naresh Shridhar Mirajkar And Others v. State Of Maharashtra And Another***, (1966) 3 SCR 744. The Supreme Court in this judgment has held as follows:

60.We have already held that the impugned order cannot be said to affect the fundamental rights of the petitioners and that though it is not inter-partes in the sense that it affects strangers to the proceedings, it has been passed by the High Court in relation to a matter pending before it for its adjudication and as such, like other judicial orders passed by the High Court in proceedings pending before it, the correctness of the impugned order can be challenged only by appeal and not by writ proceedings. We have also held that the High Court has inherent jurisdiction to pass such an order. (emphasis supplied)



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5. The abovesaid decision has been relied upon subsequently in *Jogendrasinhji Vijaysinghji v. State of Gujarat And Ors* (2015) 9 SCC 1.
6. Consequently, we are of the view that the present writ petition is not maintainable in respect of the reliefs sought and we, accordingly, dismiss the same. At the same time, since the petitioner alleges fraud and collusion inter se the respondents, we leave it open to the petitioner to bring the alleged fraud to the notice of the respondent authorities and if the petitioner makes a representation in this regard, the respondent authorities shall examine the same with all seriousness with a view to protect public interest and public property.
7. The writ petition is disposed of in the aforesaid terms.

VIPIN SANGHI, J

JASMEET SINGH, J

SEPTEMBER 30, 2021