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

+ **CONT.CAS(C) 180/2023**

SHILPA CHAWLA

..... Petitioner

Through: Mr. Manas Verma, Advocate.

versus

ABHISHEK CHAWLA

..... Respondent

Through: None.

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Reserved on: 16.02.2023

Date of Decision: 22.02.2023

CORAM:

HON'BLE MS. JUSTICE MANMEET PRITAM SINGH ARORA

J U D G M E N T

MANMEET PRITAM SINGH ARORA, J:

1. The present petition alleges wilful disobedience of the order dated 23.11.2022 passed by the Metropolitan Magistrate, North-West District, Rohini Courts ('Trial Court'), in CT Case No. 5991/2020.

2. Learned Counsel for the Petitioner, wife, states that the Petitioner had instituted a complaint under Section 12 of the Protection of Women from Domestic Violence Act, 2005. He states that in the said complaint, the Petitioner moved an application dated 12.09.2022 (1st application) seeking directions for restraining the Respondent, husband, from selling of the property bearing house No. D-160, Rishi Nagar, Delhi – 110034 ('the property'), which was listed for hearing on the scheduled date i.e., 03.11.2022. He states though the Trial Court vide order dated 03.11.2022 issued notice in the said application, however it has now come on record that

the Respondent has sold off the property on 19.09.2022.

3. He states that the Petitioner reasonably believes that the Respondent has also wrongfully disposed of the articles belonging to the Petitioner and her minor daughters including the educational documents and clothes as well, which were under the control and possession of the Respondent.

4. He states that in these circumstances, another application (2nd application) was filed by the Petitioner on 21.09.2022, seeking several directions to Respondent including a direction that the *Istridhan* and belongings of the Petitioner be returned to her as per the list annexed therewith as 'Annexure 4'. He states that in the said application, the Trial Court issued the following directions on 23.11.2022: -

"Accordingly, petitioner is at liberty to collect her articles as per the admitted list and all her educational documents and clothes of the petitioner as well as her minor daughters from the possession of the respondents in the presence of protection officer on 26.11.2022 at 2:00 p.m."

5. He states that on 26.11.2022 when the Petitioner along with the protection officer visited the property and enquired from the neighbours, she was informed that Respondent had sold and vacated the said property last month and the Petitioner and her daughters' articles were also removed by the Respondent few weeks back. He relies upon the report issued by the protection officer on 07.12.2022 with respect to the said visit.

6. He further relied upon the subsequent proceedings dated 07.12.2022 and 15.12.2022 before the Trial Court to contend that the Respondent herein has violated the order dated 23.11.2022 inasmuch as the articles of the Petitioner and her minor daughters have not been returned despite directions.

7. This Court has heard the learned counsel for the Petitioner and perused the paper book.

8. In the first instance, this Court notes that in the 2nd application dated 21.09.2022, the Petitioner herein acknowledged that the property stood sold on 19.09.2022. In these circumstances, this Court is unable to appreciate on what basis a direction was issued by Trial Court on 23.11.2022 to visit the sold property for retrieval/collection of the articles of the Petitioner and her minor daughters. If a property has been sold, admittedly no articles could've remained at the said property. Further, the observation in the said order as regards "admitted list" is also unclear as the said phrase does not appear in the application on which the order was passed and considering the order is *ex-parte*, as the Respondent was not present.

9. Further, this Court has perused the protection officer's report dated 07.12.2022, which records that as per the version of the Respondent, the Petitioner herein had collected all her belongings in September, 2020, when she was duly accompanied with a police officer. In this regard, the Respondent also shared with the protection officer, photographs, which are filed with the said report marked as 'Annexure P5'. The said photographs, *prima facie*, show that the Petitioner herein, duly accompanied by police officers, collected her articles from the property in 2020.

10. The protection officer's report of 07.12.2022 refers to an interaction held by the said officer with the mother-in-law i.e., Ms. Asha Chawla and refers to a conversation between the said parties, wherein the mother-in-law had expressed hope that the Petitioner and the minor daughters will return to the household. This Court fails to appreciate as to how the said conversation can be relied upon to overlook the photographs shared by the Respondent with respect to the collection of articles in September 2020.

11. To a query made by the Court with respect to incident of September

2020, learned counsel for the Petitioner states that on the said date partial collection was made and some articles continued to remain at the property. He states he is unaware if any application was filed before the Trial Court after September 2020 asserting that only partial collection has been made. The submissions of the counsel for the Petitioner itself shows that it is a disputed question of fact as to whether after September 2020, there were articles of the Petitioner and her minor daughters which remained at the property.

12. This Court also takes note of the subsequent order dated 18.01.2023 passed by the Trial Court, wherein the Trial Court has set the matter down for trial and not returned any adverse finding against the Respondent herein for the alleged non-compliance of the order dated 23.11.2022.

13. In the aforesaid facts and circumstances, this Court is of the view that the issues raised in the present petition are disputed and do not prima facie establish non-compliance of the order dated 23.11.2022.

14. Accordingly, the present petition is dismissed.

MANMEET PRITAM SINGH ARORA, J

FEBRAURY 22, 2023/rk