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

% *Date of decision* :22.08.2023

+ **W.P.(CRL) 2369/2023**

GAYATRI GOYAL & ANR.

..... Petitioners

Through: Mr. Parmod Kumar Dubey, Sr.
Advocate with , Mr. Rinku
Garg, Mr.Prashant Dahiya, Mr.
Manik Bhalla, Ms. Pallavi Garg
and Ms. Aditi, Advocates.

versus

STATE OF NCT OF DELHI & ORS.

..... Respondents

Through: Mr. Sanjeev Bhandari, ASC for
the State with Mr. Kunal Mittal,
Advocate and with SI Murari
Krishan, PS New Friends
Colony.
Ms. Sima Gulati, Advocate with
Ms. Revati Gulati and Ms.
Diksha Narula, Advocates for
R-6 to 8.

CORAM:

HON'BLE MR. JUSTICE RAJNISH BHATNAGAR

RAJNISH BHATNAGAR, J (ORAL)

CRL.M.A. 22232/2023

1. Exemption allowed, subject to all just exceptions.
2. The application stands disposed of.



W.P.(CRL) 2369/2023

3. The present writ petition has been filed under Article 226/227 of the Constitution of India read with Section 482 Cr.P.C. by the petitioners with the following prayers:-

“i. Quash the FIR No. 187/2023 being registered as the misuse of power and law by the police officials of PS New Friend Colony at the behest and in connivance with Respondent No. 6-8.

ii. Direct immediate suspension and strict action against the erring police officials i.e., Respondent No. 4 & 5 and/or any other police officer it involved in the present matter.

iii. Direct Departmental/Vigilance inquiry against the erring police officials i.e., Respondent No.4 & 5 and/or any other police officer involved in the present matter.

iv. Issue a Writ, order or direction in the nature of mandamus or any other Writ, order or direction declaring that the acts of Respondents are contrary to law and impose strict actions against them.

v. Issue a Writ, order or direction in the nature of mandamus or any other Writ, order or direction directing all the Respondents from not restraining the Petitioners to enter and enjoy their property bearing no. A- 271, Ground Floor, New Friends Colony, New Delhi-11 0025 as Petitioners are the rightful and true owners of the said plot/floor and also not to be forced to enter into settlement with regards the FIR No. 190/2011 at PS- New Friend Colony.

vi. Issue a Writ, order or direction in the nature of mandamus or any other Writ, order or direction directing the Respondent/Police Authorities to conduct fair and impartial investigation in various complaints filed by the Petitioners.

vii. Issue a Writ, order or direction in the nature of mandamus or any other Writ, order or direction directing the Respondents/Police Authorities to not to threaten the Petitioners and to pressurize them in order to settle all the disputes between the parties. Pass such other order(s) as deemed fit and proper by this Hon'ble Court in the facts and circumstances of the present case.”

4. In brief the facts of the case, as alleged by the petitioner, are that property bearing no. A-271, Ground Floor, New Friend



Colony, New Delhi was sold through a registered Sale Deed by Smt. Sheela Devi (respondent no. 6 herein) to Smt. Gayatri Goyal (petitioner no. 1 herein) on 15.12.2009 alongwith a possession letter in favour of Gayatri Goyal. It is further alleged that the petitioners filed a criminal complaint with regard to the forged and fabricated MOU dated 15.12.2009 created by Kapil Garg (respondent no. 7 herein) and as a result, FIR no. 190/2011 at PS New Friend Colony dated 24.08.2011 under Section 420 IPC was registered after the orders of the Court. It is further alleged that in order to cover their own frivolous story, Kapil Garg also filed a cross FIR no. 221/2011 dated 15.09.2011 at PS New Friend Colony against the Petitioners. It is further alleged that Smt. Sheela Devi and her sons namely Kapil Garg (respondent no. 7 herein) and Romi Garg (respondent no. 8 herein) in order to take back the property illegally and fraudulently, Kapil Garg filed a frivolous suit based upon a forged and fabricated MOU. It is further alleged that another Civil Suit no. 716/2012 was filed by Smt Sheela Devi alleging that the sale deed was executed by Petitioners by misrepresentation. Thereafter, in the said civil suit, *status quo* order was passed by the Hon'ble Court vide order dated 23.03.2012 and 04.04.2014 respectively. It is further alleged that the said suit came to be dismissed for non-prosecution in January 2023 and after that the said property was taken over by the Petitioners as they had a sale deed in their favour with a possession letter of the property. Thereafter on 09.06.2023, FIR



No. 187/2023 registered at PS New Friend Colony under Section 380/453/448/506/34 of IPC against the petitioners.

5. Learned senior counsel for the petitioner submits that petitioners are the real owners of the property bearing no A-271, Ground Floor, New Friend Colony, New Delhi and respondent nos. 6 to 8 in connivance with police officials are restraining the petitioners from entering into their own house which is clear from the fact that the police officials have registered a false and frivolous FIR for trespassing against the petitioners. He further submits that respondent nos. 6 to 8 are trying to get registered further false and frivolous FIRs and civil suits in order to grab the property and to harass the petitioners. He further submits that this act, where police officials came to restrain the petitioner from entering into their house was pre-decided and they are hand in glove with the respondent nos. 6 to 8 in order to grab the property of the petitioners.

6. Learned senior counsel for the petitioner further submitted that the conduct of the police officials and the respondent no. 8 is visible in CCTV footages of 08.06.2023 and 09.06.2023 and he laid stress on the paragraph nos. 29 and 30 of the petition. In support of his contention, learned senior counsel for the petitioner has relied upon the judgments passed by the Hon'ble Supreme Court in *Anamallai Club Vs. Government of Tamil Nadu & Ors.* (1997 (3) SCC 169); *Vidya Devi Vs. State of Himachal Pradesh* ((2020) 2 SCC 569); *Sukh Dutt Ratra & Anr. Vs. State of Himachal Pradesh* ((2022) 7 sec 508).



7. Issue notice. Learned ASC for the State and learned counsel for respondent nos. 6 to 8 appear on advance notice and accept notice.

8. Learned ASC submits that this a *mala fide* petition with the intention to pressurise the police officials. He further submits that this is only a civil dispute with regard to the ownership and possession of the property bearing no. A-271, Ground Floor, New Friend Colony, New Delhi. He further submits that all the contentions raised by the petitioners cannot be decided in the present petition as they relate to the facts of the case and need trial. He further submits that an FIR No. 188/2023 under sections 323/341/506/34 IPC registered at Police Station New Friends Colony has already been registered by petitioner no. 2 against respondent nos. 7 and 8 and the contents of the said FIR are almost identical to the allegations levelled in the present petition. He further submits that on 08.06.2023, 14-15 PCR calls were made and for that reason, the police officials had gone to the spot to attend the said calls and the police officials never sided with any of the parties.

9. Learned counsel for respondent nos. 6 to 8 submits that the petitioners have themselves admitted in para 29 of the petition that he himself locked the main gate, so there was no occasion for the respondents to trespass in property in question. She further submits, as submitted by learned ASC, that there are cross FIRs against both the parties and allegations made by each of them need evidence.



10. In the instant case, the petitioner is seeking quashing of FIR No. 187/2023 registered at PS New Friend Colony under Sections 380/453/448/506/34 of IPC against the petitioners and apart from the quashing, the petitioners are also seeking departmental enquiries against the police officials as mentioned in the prayer (iii). Having gone through the present petition and having heard the submissions of both the parties, it appears that there is a property dispute in relation to property being A-271, Ground Floor, New Friend Colony, New Delhi where both the parties are claiming to be the owners of the property in question.

11. During the course of arguments, learned senior counsel for petitioners has drawn the attention of this Court to paragraph no. 29 and 30 of the present petition. The contention of the learned senior counsel for the petitioner that the respondent nos. 6 to 8 in connivance with the police officials took the forceful possession of the property in question is a matter of evidence. Learned senior counsel for the petitioner has further pointed out the paragraph 29 to contend that respondent no. 8 visited the premises with goons and in support of this contention, he drew the attention of this Court towards video footages which are annexed as P-12 in the present petition. The video footages were seen but the contentions raised in the paragraph 29 and 30 does not corroborate with the video footages on which the petitioners have relied though it shows the presence of certain persons and police officials. Even otherwise, the evidentiary



value of the video footages and all the contentions raised are matter of trial and the FIR bearing no. 188/2023 under sections 323/341/506/34 IPC registered at Police Station New Friends Colony has already been registered on the basis of the complaint of petitioner no. 2 against respondent nos. 7 and 8.

12. Therefore, prayer no. (i) and (ii) are hereby rejected as the same can only be decided once the parties lead their respective evidence in the cross FIRs registered by them against each other.

13. Moreover, the judgments relied upon by learned senior counsel for the petitioner is concerned, there is no dispute with regard to the proposition of law laid down in the judgment but they are not applicable to the facts and circumstances of the present case as both the parties are claiming to be the owner of the property in question and unless and until that dispute is settled, it is difficult to say who is the owner and who owns the possession which again needs evidence.

14. As far as prayer (iii) is concerned, the same cannot be granted as the role of the police officials is not yet crystalised and investigation is at a very initial stage. The police officials of the concerned area have already acted on the complaints of both the parties and have duly registered the FIR against each of them and it cannot be said at this stage that they have sided either of the parties unless and until something comes against the police officials during the course of the trial in both the FIRs. So the directions sought by the petitioners via prayer (iii)



cannot be granted at this stage.

15. The petition lacks merits, therefore, dismissed.

RAJNISH BHATNAGAR, J

AUGUST 22, 2023/_p