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

\+ W.P.(C) 1275/2023

RUKMANI SINGH ..... Petitioner

Through: Mr. A.K. Babbar, Mr. Surendra Kumar, Advs.

versus

PRINCIPAL COMMISSIONER OF INCOME TAX 12 & ORS. ..... Respondent

Through: Mr. Kunal Sharma, Sr. SC with Ms. Zehra Khan, Jr. SC, Mr. Shubendru, Advs.

CORAM:
HON'BLE MR. JUSTICE YASHWANT VARMA
HON'BLE MR. JUSTICE PURUSHAINDRA KUMAR KAURAV

<u>O R D E R</u>

% **06.02.2024**

1. The order sheet would reflect that despite time having been granted right from 01 February 2023 for the respondents to obtain instructions and to file a reply, the same has not been complied with. Despite repeated opportunities having been granted on 14 March 2023 and again on 13 October 2023, the respondents have also failed to file a counter affidavit. Their right to do so consequently stands foreclosed.

2. The writ petitioner assails the validity of the impugned notice dated 09 July 2022 purporting to be under Section 148 of the Income Tax Act, 1961 ["**Act**"] for Assessment Year ["**AY**"] 2017-2018. As is manifest from a reading of the order ultimately passed and referable to Section 148A(d), the initiation of action against the writ petitioner proceeds on the premise that he had sold an immovable property below the registered value as computable in terms of Section 50C of

the Act. The order further proceeds to recite that the petitioner has sold the property for a consideration of Rs.23,00,000/-.

3. However, we find that on the record is placed an Agreement to Sell dated 03 March 2017 and which is stated to be the only transaction to which the writ petitioner was a party. As is ex facie evident from a reading of that agreement, the writ petitioner was the purchaser and thus, the vendee. It is thus evident and apparent that the notice has proceeded on a wholly incorrect and unsubstantiated plea.

4. We consequently allow the writ petition and quash the notice dated 09 July 2022 passed under Section 148A(d) of the Act. The writ petition stands disposed of accordingly.

YASHWANT VARMA, J.

PURUSHAINDRA KUMAR KAURAV, J.

FEBRUARY 06, 2024

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