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

+ **C.R.P. 85/2024 & CM APPL. 12612/2024**

MANJU PAL

..... Petitioner

Through: **Mr. Anil T. & Ms. Labita,**
Advs.

versus

SANJEEV GARG & ANR.

..... Respondents

Through: **None.**

CORAM:

HON'BLE MR. JUSTICE DHARMESH SHARMA

ORDER

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29.02.2024

CM APPL. 12611/2024 (Ex.)

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

CM APPL. 12612/2024 (Delay of 10 days in filing of the present civil revision petition)

3. The application has been moved on behalf of the petitioner for condonation of delay of 10 days in filing the present civil revision petition.
4. For the reasons stated in the application, the delay of 10 days in filing the present civil revision petition is condoned.
5. The application stands disposed of.

C.R.P. 85/2024

6. The petitioner, who is the defendant No.1 in the suit filed by the respondent No.1/plaintiff, assails the impugned order dated 22.11.2023 passed by the learned Additional District Judge-02, Shahadara District, Karkardooma Courts, Delhi, whereby her application under Order VII Rule 11 CPC has been dismissed.
7. Shorn off unnecessary details, apparently, the petitioner and



respondent No.2 Ashok Kumar Pal are involved in an acrimonious marital dispute. The petitioner has been residing in the suit premises which is evidently in the name of respondent No.2/husband, although she also claims that she had made a substantial investment towards the purchase and up keep of the house in question.

8. Be that as it may, respondent No.2/husband has sold the property in question to respondent No.1/plaintiff vide registered Sale Deed dated 08.08.2018 and the plaintiff has filed a suit claiming himself to be the owner of the premises and for eviction of the respondents including the petitioner from the premises in question, thereby seeking relief of possession, mesne profit and user charges, besides permanent and mandatory injunction, the learned Trial Court on moving of the application under Order VII Rule 11 CPC, passed the following short order:-

“22.11.2023

Present: Sh. Aman Bhardwaj, Ld. Counsel for the plaintiff
Sh. Anil Tejyan, Ld. Counsel for the defendant.

Arguments heard on the application under Order 7 rule 11 CPC earlier filed on behalf of the defendant no. 1.

It is submitted by Ld. Counsel for the defendant no. 1 that the plaintiff has filed the present suit in collusion with defendant no. 2 as the same counsel i.e. the plaintiff herein has been representing the defendant no. 2 in the matrimonial proceedings between defendant no. 1 and defendant no. 2 and that the defendant no. 2 is supporting the case of the plaintiff

Per contra, Ld. Counsel for the plaintiff submits that it is an admitted case that defendant no. 2 has sold the suit property to the plaintiff vide Registered Sale Deed dated 08.08.2018 and the factum of the sale has also come in the notice of the DV Court in the matrimonial proceedings between the defendant no. 1 and defendant no. 2 bearing CT no. 2338/18 vide order dated 26.02.2020 passed by Ld. MM (Mahila Court-02), Shahdara Karkardooma Courts, Delhi, wherein it has been observed by Ld. MM that "respondent (defendant no. 2 herein) was admittedly living in the rented premises and compelled by the circumstances, he sold the property to plaintiff herein on the assurance of



petitioner (defendant no. 1 herein) to provide her a lump-sum amount".

Ld. Counsel for the defendant no. 1 submits that no such lump-sum has been paid by defendant no. 2 to her till date and in this regard proceedings are pending between defendant no. 1 and defendant no. 2.

Admittedly, there was no stay by Court of Ld. MM (Mahila Court-02), Shahdara Karkardooma Courts, Delhi thereby restraining the defendant no. 2 from selling the suit property (shared household) to the plaintiff, even after the factum of the sale was brought to the notice of Ld. DV Court vide order dated 26.02.2020 as mentioned above.

In view of the same, the application under Order 7 rule 11 CPC filed on behalf of defendant no. 1 is dismissed."

9. At the outset, this Court finds no illegality, infirmity or incorrect approach adopted by the learned Trial Court in passing of the aforesaid order. The plea that the suit is without any cause of action is a long shot.

10. However, after some arguments, learned counsel for the petitioner submitted that he would not only approach the learned Mahila Court seeking appropriate relief in terms of the Explanation Clause to Section 3(d) (4), since the petitioner has been a victim of economic abuse at the hands of her husband, but he would also seek relief from the Court concerned that the sale of the suit premises was vitiated on that account.

11. In view of the foregoing discussion, the present civil revision petition is dismissed. Nothing contained herein shall tantamount to an expression of the opinion on the merits of the case.

12. The petitioner is at liberty to seek appropriate relief from the learned Mahila Court as also the learned Trial Court as per law.

DHARMESH SHARMA, J.

FEBRUARY 29, 2024/sa