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* IN THE HIGH COURT OF DELHI AT NEW DELHI

% Date of Decision: 19.03.2024

+ CRL.M.C. 2148/2024, CRL.M.A. 8330/2024

M. S. JADHAV Petitioner

Through: Petitioner-in-person.

versus

STATE GOVT. OF NCT OF DELHI & ANR. Respondents

Through: Mr. Mukesh Kumar, APP.

CORAM:

HON'BLE MR. JUSTICE ANOOP KUMAR MENDIRATTA

ORDER

% **19.03.2024**

CRL.M.A. 8331/2024

Exemption allowed, subject to just exceptions.

Application stands disposed of.

CRL.M.C. 2148/2024, CRL.M.A. 8330/2024

1. Petition under Section 482 of the Code of Criminal Procedure, 1973 ('Cr.P.C.') has been preferred on behalf of the petitioner with the following prayers :

“a. To quash the prima facie false claim impugned Complaint Case No. No.14385/ 2018 titled as Delhi Transco Ltd. Vs. M.S. Jadhav, U/Sec. 452 of the Company Act, 2013 read with Sec. 630 of the Company Act, 1956 & Sec.200 of Cr. P.C. pending before the Ld. ACMM (Central), Tis Hazari Court, New Delhi without territorial jurisdiction which is a nullity and to prevent the abuse of process of law and miscarriage of justice, to preserve sanctity of Court and to safeguard administration of law as false claim complaint proceeding initiated by the respondent no.2 illogically



without cause of action because the flat was taken in possession on 31/07/2018 without due process of law and the impugned complaint was filed in the month of August, 2018 intentionally and concealed or suppressed the material facts deliberately and intentionally just to continue to pursue senseless and illconsidered claims from last more than five years by way of misrepresentation of facts with mala fide intention and bad motive which affected overburdened judiciary for pendency of false litigations due to the illegal act committed by the battery of lawyers to continue the non-est ineffective proceeding, to somehow or the other, and abused the process of law just to harm to the reputation of the petitioner intentionally so the same be quashed to prevent abuse of process of law in the interest of justice.

b. To pass an order of cost of the petition for wasting the precious time of the judicial authority by the incompetent battery of lawyers to continue non-est false complaint case proceedings somehow or the other, without territorial jurisdiction before the Ld. ACMM (Spl. Act), Central, Tis Hazari Court, New Delhi, just to harass and harm to the reputation of the petitioner in the interest of justice.”

2. Learned APP for the State/respondent no.1 appears on advance notice. None for respondent no. 2.

3. Petitioner is aggrieved against order dated 17.02.2024 passed by learned Trial Court, whereby he has been summoned in a complaint preferred on behalf of M/s Delhi Transco Ltd. (respondent No. 2 in present proceedings) under Section 452(1)(b) of Companies Act, 2013 read with Section 630(1)(b) of the Companies Act, 1956. The prayer in the complaint case preferred on behalf of respondent No. 2 / complainant may be briefly noticed for reference:

“a. Take cognizance of the offence committed by the accused;

b. Summon, try and punish the accused for the offence committed by him under Section 452 of the Companies Act,



2013 read with Section 630 of the Companies Act, 1956;

c. Direct the accused to handover the vacant and peaceful possession of the subject quarter bearing Flat No. 2, Type-VII, DTL New Kilokri Staff Colony, Opposite Ring Road, Maharani Bagh, New Delhi immediately to the Complainant Company; and

d. Direct the accused to pay an amount of Rs. 17199942(Rs. One Crore Seventy One lakh Ninety Nine thousand Nine Hundred Forty Two only) on account of damages applicable from 07.09.2011 to 31.05.2018 for wrongful and unauthorized possession of the subject quarter to the Complainant Company.”

4. A bare perusal of the complaint preferred by respondent No. 2 before learned Trial Court reflects that initially flat No. F-133, Type-II, DTL New Kilolari Staff Colony, New Delhi was allotted to the petitioner on 03.06.2003 during his employment with the company / respondent No. 2. Petitioner was dismissed from service on 18.07.2008 and thereafter, the proceedings were initiated by respondent No. 2 for the vacation of said flat, which remain embroiled in litigations initiated by the petitioner. Finally, police assistance was sought for getting the premises vacated in terms of eviction order dated 21.07.2011.

It is further stated in the complaint preferred by respondent No. 2 that while belongings of the petitioner were being removed from Flat No. F-133, Type-II and kept in Flat No. 2, Type-VII, the possession of the same was unauthorizedly taken by the petitioner by putting his lock. As such, the aforesaid flat again became a subject of litigation initiated by the petitioner and continued to be in his illegal and unauthorized possession.

In the aforesaid background, left with no other option, complainant / respondent No. 2 Delhi Transco Ltd. filed the complaint under Section 452(1)(b) of Companies Act, 2013 read with Section 630(1)(b) of the



Companies Act, 1956, as noticed above.

5. Petitioner submits that since the possession of the flat has already been taken over by respondent No. 2, the complaint and proceedings emanating therefrom are not maintainable.

6. Section 630 of the Companies Act has been enacted with the object to provide a summary procedure for retrieving the property of the company, (a) wherein, an officer or employee of the company wrongfully obtains possession of property of the company or (b) where having been placed in the possession of any such property during the course of his employment wrongfully withholds possession of it after the termination of his employment.

The proceedings initiated in this regard should not be rendered toothless unless a *prima facie* case is set up by the employee for any interim orders in his favour, as it has been observed that the employees and ex-employees at times hold on the property of the company by litigating for decades together.

7. *Prima facie*, the facts in the complaint disclose that the petitioner, who was put into possession of a property in his capacity as an officer / employee of the company, continues to withhold even another property after dismissal, without having any independent right, title or interest after cessation of his employment. The stand taken by the petitioner that he had handed over the possession of the flat can be duly looked into by the learned Trial Court. This is not a fit case to interfere in the proceedings before learned Trial Court at this stage, as the same cannot be termed to be illegal or without jurisdiction.

8. This Court is of the considered opinion that petition filed by the petitioner is without merits and does not call for exercise of inherent powers



under Section 482 Cr.P.C. Petitioner is at liberty to raise all contentions, before the learned Trial Court, in accordance with law.

Petition is accordingly disposed of. Pending applications, if any, also stand disposed of.

ANOOP KUMAR MENDIRATTA, J.

MARCH 19, 2024/R