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

+ EX.P. 38/2023, EX.APPL.(OS) 1335/2023, EX.APPL.(OS) 1512/2023, EX.APPL.(OS) 99/2024, EX.APPL.(OS) 505/2024, EX.APPL.(OS) 660/2024, EX.APPL.(OS) 665/2024

**MR. B. K. GOEL SINCE DECEASED THROUGH
LEGAL REPRESENTATIVES & ORS.**

..... Decree Holders

Through: Mr Pradeep Dhingra, Mr Pradeep
Kumar, Mr Archit Relan and Mr
Nikhil Joshi, Advs.

versus

**MR. S. C. AGGARWAL SINCE DECEASED
THROUGH LEGAL REPRESENTATIVES & ORS.**

..... Judgement Debtors

Through: Ms Tajinder Viridi, Standing Counsel
for DDA with Mr Yogesh Dhingra,
Asst. Commissioner (Land & Estate),
MCD.

**CORAM:
HON'BLE MR. JUSTICE JASMEET SINGH**

ORDER

17.05.2024

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1. This is an execution petition seeking amongst other directions, a direction to the MCD to convert the property being Shop No. 53, Mehar Chand Market, Lodhi Road, New Delhi from leasehold to freehold.
2. In the present case, on 07.02.2018, this Court was pleased to pass a decree in favour of the decree-holders. The operative portion of the judgment and decree dated 03.12.2018 reads as under:

“12. The preliminary decree is more than two years old and despite repeated opportunities being given to the parties, there has been no



amicable resolution and thus this Court on 19th September, 2018 appointed a Valuer to value the property. Disputes of such a nature cannot be allowed to remain pending endlessly. The shares of both the parties have been clearly determined. The parties were asked to submit as to what they would consider as the fair market value of the property which each of them would be willing to pay to the other. The terms and conditions are also to be fixed by the Court in a suit of this nature where the final order for partition is to be passed. Clearly there is no possibility of the shop being feasibly divided inasmuch as the frontage of the shop is merely ten feet. It is located in Mehar Chand Market which is a prime commercial area in South Delhi. The Court, considering the various factors including the valuation given by the Court appointed Valuer as also the amounts submitted by both the parties in sealed envelope to the Court, as to what they consider as the fair market value holds that the interest of justice would be met if the final decree of partition is passed in the following manner: -

- (i) The Defendant shall pay to the Plaintiff a sum of Rs.2.5 crores for 50% share of the suit property which is way above the total market value as determined by the Valuer of Rs.3.87 crores.*
- (ii) The Defendant, shall be entitled to avail of financial support from any recognized bank/financial institution for the purpose of arranging finances to make payment to the Plaintiff.*
- (iii) The application for conversion of the property from leasehold to freehold is pending before the SDMC. The charges as mentioned in the letter dated 27th November, 2018 of the SDMC, shall now be paid by the Defendant to the SDMC within a period of 30 days.*



The SDMC shall process the application for freehold within 15 days thereafter.

- (iv) The Defendant shall be entitled to arrange for finances as may be required. The Defendant shall pay the sum of Rs.2.5 crores after deducting the Plaintiffs share of approximately Rs.8.55 lakhs which are the conversion charges.*
- (iv) The said amount of Rs.2.5 crores shall be paid by the Defendant to the Plaintiff on or before 30th April, 2019. No further extension shall be granted in this respect. The Defendant shall deposit a sum of Rs.10 lakhs within a period of two weeks in this Court in order to bind the Defendant to the present terms, which he is agreeable to.*
- (v) The electricity charges for 75% portion of the property shall be borne by the Plaintiff till today for the Plaintiffs meter. In respect of other charges and taxes, both parties shall be liable to pay their proportionate share of 50% each till date. Any penalty that may be levied due to delayed payment of any taxes by the Plaintiff, if any, shall be borne solely by the Plaintiff.*
- (vi) If the Defendant does not make payment of Rs.2.5 crores on or before 30th April, 2019, Rs. 10 lakhs would be forfeited and shall be released to the Plaintiff. At that stage, the Plaintiff would be entitled to pay a sum of Rs.2.5 crores to the Defendant to purchase the Defendant's 50% share of the property.”*

3. In accordance with the directions issued in the judgment and decree dated 03.12.2018, the decree-holder has paid the entire amount of Rs. 2.5 crores to the legal heirs of Sh. S.C. Aggarwal. Thereafter, there have been



numerous orders where the MCD has been called upon by this Court to convert the property from leasehold to freehold. On 23.04.2019, this Court was pleased to issue notice to the Standing Counsel, SDMC on the application for conversion of the property from leasehold.

4. On 20.05.2019, it was directed to process the conveyance deed in favour of the legal heirs of late Sh. B.K. Goel within ten days.

5. The MCD on 09.08.2019, informed the decree-holder that “conversion charges for the property has already been received by the department” but requested a fresh application from the recorded lessee to initiate the process of conversion.

6. On 10.11.2022, the decree was amended and fresh orders were passed.

7. Despite a series of the above orders and despite the decree dated 03.12.2018, the property is yet to be converted from leasehold to freehold in favour of the decree-holders.

8. Ms Viridi, learned standing counsel appearing for the judgment-debtors has today handed over a scheme of conversion from leasehold to freehold and draws my attention to the para quoted below:

“The person/persons in whose name(s) appear on the records of the Land & Estate Dept. as lessee(s) can apply for conversion. If there are a number of lessees, all of them will have to sign the application. However, the lessee(s) can also give Power of Attorney (which should be registered in the office of the Sub-Registrar) to sign the application his his/her/their behalf.”

9. I am of the view that in the present case, on 03.12.2018 the decree-holder has already paid consideration for leasehold rights of the legal heirs



of Sh. S.C. Aggarwal. As per the letter dated 09.08.2019, the conversion charges have also been paid. Since it is only the decree-holder who is now the owner of the leasehold rights, there can be no objection for conversion of the property from leasehold to freehold in favour of Sh. Chandra Prakash Gautam.

10. It is therefore directed that Sh. Chandra Prakash Gautam shall visit the office of MCD, Civic Centre, Minto Road, New Delhi on 21.05.2024 at 11:30 a.m. and within a week, the property shall be converted from leasehold to freehold and a conveyance deed duly registered will be handed over to Sh. Chandra Prakash Gautam on or before 29.05.2024, failing which contempt action shall be initiated against all officers responsible for non-compliance of the orders passed earlier and today.

11. The petition is disposed of accordingly.

12. A copy of the scheme of conversion handed over in Court today is taken on record.

JASMEET SINGH, J

MAY 17, 2024

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Click here to check corrigendum, if any