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

+ **W.P.(C) 10131/2022**

SHEETAL KAUR LUBHANA.

.....Petitioner

Through: Mr. Pawan Kumar, Advocate.

versus

M/S CAN FIN HOMES LTD. AND ANR.

.....Respondents

Through: Ms. Deepa Gupta, Advocate for R-1.

CORAM:

HON'BLE MR. JUSTICE SANJEEV NARULA

ORDER

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23.07.2024

1. The Petitioner, Smt. Sheetal Kaur Lubhana, has filed the instant petition through her attorney, Mr. Mangal Sain Gaur.
2. The Petitioner contends that she married Mr. Amit Kumar Lubhana on 22nd November, 2004, as per Hindu rites and customs. Subsequently, Mr. Amit Kumar Lubhana passed away on 11th July, 2021. As such, after the demise of her husband, she, along with her three children, became the Class-I legal heirs of the late Mr. Amit Kumar Lubhana.
3. The Petitioner asserts that when she was living with her deceased husband, he had informed her that he had purchased the property bearing No. B-41, Ground Floor, MIG, Dilshad Colony, Delhi-110095¹ and that the same was purchased after taking a loan from Respondent No. 1– Can Fin Homes Ltd., a subsidiary of Canara Bank.

¹ “subject property”



4. The Petitioner asserts that her deceased husband had named Respondent No. 2, Smt. Usha, who is the younger sister of the Petitioner, as a co-applicant on the aforementioned property loan. It is also claimed that the late Mr. Amit Kumar Lubhana had taken an insurance policy from Respondent No. 1, as per which, in case of his untimely death, there would be no further need to repay the aforementioned property loan, thereby making the subject property free from any encumbrance.

5. In light of the above background, after the unfortunate and untimely death of Mr. Amit Kumar Lubhana on 11th July, 2021, the Petitioner, through her counsel Mr. A.K. Dubey, Advocate, requested Respondent No. 1 to return the original title documents of the subject property. However, Respondent No. 1 refused, stating that they would return the documents to Smt. Usha, i.e., Respondent No. 2.

6. The Petitioner subsequently instituted a civil suit bearing No. 873/2021² before the Civil Judge, Karkardooma Courts against Respondent No. 2, who is claiming herself to be wife of late Mr. Amit Kumar Lubhana.

7. In the above background, the Petitioner asserts that she has the rightful claim over the subject property, and that Respondent No. 2 has no legal right on it. Consequently, the Petitioner seeks a direction to be issued to Respondent No. 1, directing them not to hand over the original title documents of the subject property to Respondent No. 2. Instead, the Petitioner prays that the said original title documents be immediately handed over to her.

8. During the course of proceedings, counsel for Petitioner stated that they are interested to settle the property loan taken on the subject property



and therefore, Respondent No. 1 should be directed to hand over the original title documents to Petitioner.

9. Upon careful consideration of the facts presented in the instant writ petition, it is evident that there are substantial disputed questions of fact regarding the ownership of the subject property and the Petitioner's relationship with Late Mr. Amit Kumar Lubhana. The Petitioner has already initiated a civil suit (bearing No. 873/2021) before the Civil Judge at Karkardooma Courts, where these issues are being contested.

10. It is pertinent to note that the writ jurisdiction under Article 226 of the Constitution of India is primarily intended for the enforcement of fundamental rights and for any other purpose within its ambit. However, this jurisdiction is not appropriate for adjudicating complex factual disputes which necessitate a detailed examination of evidence. The issues at hand, particularly in terms of determination of the rightful owner of the subject property and the exact nature of the Petitioner's relationship with the deceased, are intrinsically linked to the disputed facts which are best addressed in a civil suit.

11. Furthermore, the instant writ petition lacks specific details regarding the loan taken from Respondent No. 1. The absence of particulars related to the loan agreement, the insurance policy terms, and the obligations of the parties involved renders the petition vague and unspecific. Such omissions further complicate the matter, making it unsuitable for resolution/adjudication under writ jurisdiction.

12. The liability of Respondent No. 1 concerning the return of the title documents, and the determination of the rightful claimant, whether it be the

² titled 'Sheetal Kaur Lubhana v. Usha'



Petitioner or Respondent No. 2, cannot be conclusively adjudicated within the present writ proceedings. These are matters that require a thorough trial, where evidence can be presented, examined, and cross-examined.

13. In light of the above considerations, it is clear that the complexities and the factual disputes involved in the present writ petition necessitate a proper civil trial. Therefore, the Petitioner's request for a direction to be issued to Respondent No. 1 for handing over of the original title documents of the subject property cannot be granted under the writ jurisdiction of this Court. The Petitioner can pursue her remedy through the ongoing civil proceedings, where all the disputed issues can be adequately addressed and resolved.

14. In light of the above, the Court is not inclined to entertain the present proceedings and the same is dismissed.

SANJEEV NARULA, J

JULY 23, 2024

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