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

Date of Decision: 06.05.2024

+ CONT.CAS(C) 712/2018 & CM APPLs. 45879/2023 & 55545/2023
SUNIL KUMAR Petitioner

Through: Mr. Annirudh Sharma with
Ms. Shriya Chanda, Advocates.

versus

SHALU GUPTA @ SHEELA & ORS Respondents
Through: Mr. Satvinder Singh, Advocate for
respondent no. 5 with respondent no.
5 in person.
(M): 9310905051

+ CONT.CAS(C) 1225/2023 & CM APPL. 44533/2023
SUNIL KUMAR Petitioner

Through: Mr. Annirudh Sharma with
Ms. Shriya Chanda, Advocates.

versus

SHALU GUPTA ALIAS SHEELA AND ORS Respondents
Through: Mr. Satvinder Singh, Advocate for
respondent no. 5 with respondent no.
5 in person.
(M): 9310905051

CORAM:
HON'BLE MS. JUSTICE MINI PUSHKARNA

MINI PUSHKARNA, J: (ORAL)

1. The contempt petition, being *CONT.CAS(C) 712/2018*, was disposed



of by this Court vide order dated 21st July, 2023, which reads as under:-

"1. This is a petition seeking initiation of contempt proceedings for noncompliance of the undertaking given on 25.07.2018 passed in CS(OS) No. 45/2015.

2. As per the said undertaking, all the respondents were to execute relinquishment deed in respect of the property Agricultural land in revenue estate of Village Chauma in Khasra No. (area) - Khasra No. 49/21/1 (5-13), 21/2 (2-7), 65/1 (8-0), 10 (8-0), 11 (8-0), 20 (8-0), 21/1 (6-0) total measuring 46-0 bighas.

3. It is stated that the respondents appeared before the concerned SubRegistrar on 20.07.2023 but on account of some strike, the relinquishment deed could not be executed.

4. It is, therefore, directed that the petitioner shall take an appointment before the Sub-Registrar, Gurugram in the week of 21.08.2023 to 25.08.2023 and shall inform the learned counsel for the respondent the date of execution at least 1 week before the appointment vide e-mail.

5. The petitioner shall also find beforehand whether the registration is going on before the Sub-Registrar, Gurugram and shall also inform the learned counsel for the respondent. Thereafter, the amount lying deposited in this Court shall be released in favour of the respondent or through counsel with accrued interest.

6. With these directions, the contempt petition is disposed of."

(Emphasis Supplied)

2. Perusal of the aforesaid order, clearly shows that the CONT.CAS(C) 712/2018, had been filed on the premise that the respondents had not complied with the undertaking given on 25th July, 2018, passed in CS (OS) No. 45/2015. As per the said undertaking, all the respondents were to execute the relinquishment deeds in respect of the agricultural land in revenue estate of Village Chauma in Khasra No. (area) - Khasra No. 49/21/1 (5-13), 21/2 (2-7), 65/1 (8-0), 10 (8-0), 11 (8-0), 20 (8-0), 21/1 (6-0) total measuring 46-0 bighas.

3. Since the respondents had not executed the said relinquishment deeds



in favour of the petitioner, the said contempt petition came to be filed.

4. Subsequently, the aforesaid contempt petition was disposed of by the aforesaid order dated 21st July, 2023, wherein, it was directed that the petitioner shall take an appointment before the Sub-Registrar, Gurugram in the week of 21st August, 2023 to 25th August, 2023, and shall inform the respondent about the date of execution, atleast one week before the appointment.

5. Since, it is the case of the petitioner that the aforesaid directions contained in the order dated 21st July, 2023, were not complied with by the respondents, a second contempt petition being *CONT.CAS(C) 1225/2023* has been filed by the petitioner, alleging non-compliance of the order dated 21st July, 2023 passed in *CONT.CAS(C) 712/2018*.

6. This Court notes that the original order, for compliance of which, the contempt petition, being *CONT.CAS(C) 712/2018* was filed, is the order dated 25th July, 2018 passed in *CS (OS) No. 45/2015*, which reads as under:-

“Today defendant no. 4 as well as learned counsel for the plaintiff, defendant no.1 and defendant nos.5 to 8 state that the matter has been amicably resolved. They state that defendant no.1 has handed over the following cheques to the plaintiff as well as to defendant nos.4 to 8.

Sr. No.	Party Name	Amount	Cheque No./Date	Bank
1.	Shalu Gupta/Plaintiff	1,00,000,00/-	850837 dt.25.07.2018	Oriental Bank of Commerce, Vasant Vihar, New Delhi
2.	Shalu Gupta/Plaintiff	70,00,000/-	850838 dt.25.07.2018	Oriental Bank of Commerce, Vasant Vihar, New Delhi
3.	Mani Devi/D-4	1,00,000,00/-	850845 dt.25.07.2018	Oriental Bank of Commerce,



				Vasant Vihar, New Delhi
4.	Veena Gupta/D-5	1,00,000,00/-	850844 dt.25.07.2018	Oriental Bank of Commerce, Vasant Vihar, New Delhi
5.	Nisha Devi /D-6	1,00,000,00/-	850841 dt.25.07.2018	Oriental Bank of Commerce, Vasant Vihar, New Delhi
6.	Asha Garg/D-7	1,00,000,00/-	850842 dt.25.07.2018	Oriental Bank of Commerce, Vasant Vihar, New Delhi
7.	Sharda Aggarwal/D-8	1,00,000,00/-	850840 dt.25.07.2018	Oriental Bank of Commerce, Vasant Vihar, New Delhi

Learned counsel for defendant no.1, on instructions of defendant no.1 who is personally present in Court, states that the aforesaid cheques are good for payment and would be honoured by the bank on presentation.

Defendant no. 4 as well as learned counsel for the plaintiff and defendant nos.5 to 8, on instructions of their clients who are personally present in Court, assure and undertake to this Court that the relinquishment deed and other documents prepared by the defendant no.1 shall be executed in favour of defendant no.1 within a period of two weeks.

The statements and undertakings given by learned counsel for the plaintiff, defendant no.1, and defendant nos.5 to 8 as well as defendant no. 4 are accepted by this Court and the said parties are held bound by the same.

At this stage, learned counsel for the plaintiff wishes to withdraw the present suit. Learned counsel for defendant nos.1 and 5 to 8 as well as defendant no. 4 have no objection to the same.

None has appeared for defendant nos. 2 and 3.

Accordingly, the present suit is dismissed as withdrawn. The order dated 5th October, 2016 is recalled.

As a token of acceptance of the order, the plaintiff, defendant no.1 as well as defendant nos.4 to 8 are directed to sign the today's order sheet"
(Emphasis Supplied)



7. Reading of the aforesaid order dated 25th July, 2018, passed in CS (OS) No. 45/2015, shows that the same was a consent order, wherein, it had been recorded that the parties, who are family members, had resolved their disputes, and had amicably decided the manner in which the properties were to be divided amongst them.

8. Since it is the case of the petitioner, that despite the settlement, necessary compliances have not been made by the respondents, the present proceedings have come to be initiated, on behalf of the petitioner herein.

9. When the present matter was listed for hearing before this Court on 29th January, 2024, this Court had noted that the respondents were cooperating with the petitioner for the purposes of execution of the relinquishment deeds. The order dated 29th January, 2024, reads as under:-

“1. After hearing the parties and after perusal of the report of the Local Commissioner, it is apparent that the respondents are cooperating with the petitioner for the purposes of execution of the relinquishment deed, since in the report of the Local Commissioner it has come on record that the respondents were present for the purposes of execution of the relinquishment deed.

2. Learned counsel appearing for the respondent no. 5 submits that since the respondents have been complying with the settlement agreement, the present contempt petition is not maintainable. He further submits that for the same cause of action, two contempt petitions have been filed by the petitioner, which could not have been done.

3. Learned counsel appearing for the petitioner has submitted before this Court that the mutation of the property still stands in the name of the father of the parties and not in the name of the respondents.

4. However, this Court is of the view that the issue of mutation is a separate issue and has nothing to do with the execution of the relinquishment deed by the respondents.

5. If any steps are to be taken for mutating the property in the name of the petitioner, the said steps shall be taken by the petitioner after



execution of the relinquishment deed by the respondents in favour of the petitioner.

6. Thus, absence of mutation in the name of the respondents, is not an impediment for the purposes of execution of the relinquishment deed by the respondents.

7. In that view of the matter, the petitioner is directed to take immediate steps for the purposes of execution of the relinquishment deed by the respondents in favour of the petitioner. Further, if any steps are to be taken by the petitioner for mutation in his own name, the said steps shall be taken by the petitioner, after getting the relinquishment deed executed in his favour.

8. Needless to say, the respondents shall cooperate with the petitioner fully in getting the mutation done.

9. It is made clear that in case the petitioner does not take steps for the purposes of execution of the relinquishment deed without raising objection regarding mutation in the name of the respondents, this Court will be constrained to pass appropriate orders for release of the demand drafts deposited before this Court in favour of respondent no. 1 and respondent no. 5 on the next date of hearing.

10. Learned counsel for the petitioner shall ensure that the payments which are required to be made to the respondents for the purposes of execution of the relinquishment deed, shall be paid by the petitioner to the respondents before the visit to the Registrar. Any arrears of earlier visits shall also be paid forthwith.

11. Re-notify on 13th March, 2024. ”

(Emphasis Supplied)

10. Reading of the aforesaid order, clearly shows that on the one hand the petitioner has been raising the plea that the respondents are not cooperating in complying with the directions, as issued vide order dated 25th July, 2018 passed in CS (OS) No. 45/2015 and order dated 21st July, 2023 passed in CONT.CAS(C) 712/2018. On the other hand, the petitioner himself has been raising objection that since the mutation of the property is not in the name of the respondents, but in the name of the father of the parties, the respondents cannot execute a valid relinquishment deed in



favour of the petitioner. Thus, it is manifest that the petitioner has been taking diametrically opposite and contradictory stands before this Court. Further, it is the petitioner himself, who is not taking steps for registration of the relinquishment deeds that have been executed by the respondents. Therefore, respondents cannot be said to be in non-compliance of the order passed by this Court.

11. This Court further notes that when the matter was listed on 04th April, 2024, it had been clearly recorded that no steps were taken by the petitioner for the purposes of execution of the relinquishment deeds by the respondents, in favour of the petitioner. The order dated 04th April, 2024, reads as under:-

“1. Learned counsel appearing for the respondent no. 5 submits that order dated 29th January, 2024 passed by this Court has still not been complied with and no steps/cooperation was extended by the petitioner for the purposes of execution of relinquishment deed by the respondents in favour of the petitioner despite directions of this Court.

2. As a last opportunity, two weeks’ time is granted to the petitioner, failing which appropriate order shall be passed on the next date of hearing.

3. For renewal of the Demand Draft, list before the Joint Registrar on 08th April, 2024.

4. List before the Court on 30th April, 2024, on ‘Top of the Board in the Advance List’.”

(Emphasis Supplied)

12. This Court also notes the order dated 30th January, 2023, which was again in the nature of a consent order, which reads as under:-

“1. The matter was called out at 04:00 PM and passed over at the request of the parties to enable them to peruse the terms of the relinquishment deed and finalize the draft of the relinquishment deed, to be executed by Respondent nos. 1 to 6 in favour of the Petitioner.

2. The matter has been taken up thereafter at 05:30 PM.



3. *Petitioner, Respondent nos. 1, 3, 5 and 6 are present in Court and are duly represented by their respective counsel.*

4. *Respondent nos. 2 and 4 are not personally present in Court due to their personal difficulty but they are duly represented by their counsel. Further, they have authorized Respondent no.1 to finalize the draft of relinquishment deed on their behalf and undertake to remain bound by the proceedings held today.*

5. **Learned counsel for the parties state that Petitioner and Respondent nos. 1 to 6 have agreed upon the final draft of the relinquishment deed. It is further agreed that the parties present before the Court have agreed to execute the said approved draft in the presence of their respective counsel.**

6. **The counsel states that Respondent nos. 2 and 4 shall remain personally present in the conference room of Delhi High Court Bar Association on 02.02.2023 at 02:30 PM to execute the said relinquishment deed. Respondent no. 1 also confirms the above on instructions from Respondent no. 2 and 4.**

7. *The parties state that there is no amount outstanding and due towards Respondent nos. 2, 3, 4 and 6. They state that the said Respondents have received the entire settlement amount.*

8. *The parties state that there is a principal outstanding amount of Rs. 10 lakhs payable to the Respondent no. 1 and a sum of Rs. 1 crore due and payable to the Respondent no.5.*

9. *The parties have agreed that the aforesaid principal outstanding amount shall be paid by the Petitioner to Respondent no.1 and Respondent no. 5, along with simple interest at 8% per annum calculated w.e.f. 01.09.2018.*

10. *The parties have agreed that the aforesaid principal amount along with interest thereon shall be paid to the Respondent no. 1 and 5 at the time of presentation of the relinquishment deed, before the concerned Sub-Registrar.*

11. **It has been agreed that the Petitioner shall have the demand draft for the aforesaid principal amount, along with interest, drawn in favour of Respondent no. 1 and Respondent no. 5 respectively prepared on or before 02.02.2023. A photo copy of the said demand drafts shall be handed over to the counsel for the Respondent no. 1 and Respondent no. 5 on 02.02.2023 at 02:30 PM. However, the original demand drafts shall be handed over by the Petitioner to Respondent no. 1 and Respondent no. 5 after the presentation of the relinquishment deed**



before the concerned Sub-Registrar.

12. The parties have agreed that the Petitioner may seek an appointment from the concerned Sub-Registrar for registration of relinquishment deed between 03.02.2023 and 15.02.2023. The Respondents have agreed that they shall be present on the date of appointment fixed by the concerned sub-registrar for presenting and admitting the execution of the relinquishment deed.

13. **A photocopy of the relinquishment deed executed today by the Petitioner, Respondent nos. 1, 3, 5 and 6 today, is taken on record. It is this deed of relinquishment, which shall be presented for registration before the Sub-Registrar after Respondent nos. 2 and 4 have affixed their signatures.**

14. **It is agreed between the parties that the Respondent nos. 1 to 6 have executed the relinquishment only with respect to the 11 properties which were the subject matter of CS(OS) 45/2015 and this relinquishment deed does not pertain to any other immovable property.**

15. The aforesaid order has been passed with the consent of the parties so as to enable the Respondents to purge the contempt. The parties undertake that they shall abide by the aforesaid statements made before this Court. The undertaking of the parties is accepted by this Court and they are held bound by the said undertakings.

16. List for compliance on 27.02.2023.”

(Emphasis Supplied)

13. Pursuant to the aforesaid order, two demand drafts were deposited by the petitioner in this Court, with a view to release the said amounts to the respondents, upon execution of the relinquishment deeds by the respondents.

14. However, fact remains that no steps have been taken by the petitioner to ensure execution of the relinquishment deeds by the respondents. It has been submitted time and again before this Court on behalf of the respondents, that the respondents are willing to execute the relinquishment deeds in favour of the petitioner.

15. At this stage, it is relevant to take note of the application being CM



APPL. 55545/2023, that has been filed on behalf of the petitioner, relevant portions of which, are extracted as under:-

“xxx xxx xxx

2. That due to the willful disobedience of the order dated 25.07.2018, the Petitioner was constrained to approach this Hon'ble Court in the present contempt Petition. It is pertinent to mention that the order dated 25.07.2018 was an amicable settlement between the parties with respect to the 11 properties that were part of the civil suit and in lieu of the same, the Petitioner had made the payments to the Respondents. The list of the 11 properties are as follows:

S.NO.	DESCRIPTION OF THE PROPERTY
1.	Plot No. J-3A, Green Park extension, New Delhi
2.	Flat no. 102, Building No. 32/33 Kaushal Bazaar, Nehru Place, Delhi.
3.	Flat No. 405, Building No. 32/33 Kaushal Bazaar, Nehru Place, Delhi.
4.	Agricultural land in revenue state of village Chauma, in khasra No. 49/21/1(5-13), 21/2/(2-7), 65/1(8-0),10(8-0) 11 (8-0)20(8-0), 21/1(6-0) total admeasuring 46-0 Bighas.
5.	Residential House bearing No. RS-12, Municipal No. 379/ 1,Punjabi Bazaar, Kotla mubarakpur, New Delhi
6.	Plot No. K-103,K-104, central market dakshinpuri, Delhi
7.	Plot No.-C-1, C-2, central market, Dakshinpuri, Delhi.
8.	Flat No. 15 and 16, New Manglapuri, Mehrauli, Delhi.
9.	Shop No. S-4, Greenpark Market, New Delhi
10.	Shop at 38, central Market, Safdarjung Enclave, New Delhi
11.	Plot No. F-11/2,3,4,5,6,7 Central Market, Dakshinpuri, Delhi (6 plots).

xxx xxx xxx

6. That as per the directions of this Hon'ble Court, during the pendency of the present Petition, the Respondents had executed relinquishment deed with respect to the following properties:



S. No.	DESCRIPTION OF PROPERTY	DATE OF REGISTRATION	DATE OF ORDER
1.	Plot No. J-3A, Green Park extension, New Delhi	03.05.2023	22.05.2023
2.	Flat no. 102, Building No. 32/33 Kaushal Bazaar, Nehru Place, Delhi.	03.05.2023	25.05.2023
3.	Flat no. 405, Building No. 32/33 Kaushal Bazaar, Nehru Place, Delhi.	07.06.2023	03.07.2023
4.	Residential House bearing No. RS-12, Municipal No. 379/1, Punjabi Bazaar, Kotla mubarakpur, New Delhi	04.05.2023	22.05.2023
5.	Shop at 38, central Market, Safdarjung Enclave, New Delhi	31.05.2023	02.06.2023

xxx xxx xxx

That the Learned counsels at the time of the hearing had failed to point out and put across the pendency of the relinquishment of the remaining 5 properties which were consented by the Respondents herein. These six properties are as follows:

S.NO	DESCRIPTION OF PROPERTY
1.	Plot No. K-103,K-104, central market dakshinpuri, Delhi
2.	Plot No.-C-1, C-2, central market, Dakshinpuri, Delhi.
3.	Flat No. 15 and 16, New Manglapuri, Mehrauli, Delhi.
4.	Plot No. F-11/2,3,4,5,6,7 Central Market, Dakshinpuri, Delhi (6 plots).
5.	Shop No. S-4, Greenpark Market, New Delhi
6.	Property Agricultural land in revenue estate of Village Chauma in Khasra No. (area) - Khasra No. 49/21/1 (5-13), 21/2 (2-7), 65/1 (8-0), 10 (8-0), 11 (8-0), 20 (8-0),



21 /1 (6-0) total measuring 46-0 bighas.
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8. That after making some enquiries, the petitioner has come to know that the respondents in a very clandestine manner and with the objective of orchestrating a fraud on the Petitioner, deliberately included properties mentioned at serial no. 1, 2 and 4 which are allotted under a non-transferable license by the Delhi Urban Shelter improvement board and secondly properties mentioned at serial no. 5 which is a shop which was on rent, thirdly property at serial no. 3 which belong to the mother and the share in which cannot be relinquished by the Respondents.

9. It is submitted that the Respondents despite being fully aware of the fact that properties which are under a license from Delhi Urban Shelter improvement board cannot be relinquished or transferred still agreed before this Hon'ble Court to execute relinquishment deed and accepted money in return of the said properties.

The copy of the communication made by the Petitioner with the Registrar is annexed herewith as ANNEXURE-A/5.

The copy of the communication made by the Petitioner to Delhi Urban Shelter Improvement board is annexed herewith as ANNEXURE-A/6.

10. That with respect to the property at serial No. 5, the respondents were well aware of the fact that the said property was on rent and could not have been partitioned. However, with the sole intention to extract more money out of the Petitioner, the respondents included the said property knowing fully well that it cannot be subjected to partition.

11. That the property at serial no.3 is the property over which the mother of the Petitioner enjoys absolute title and could not have been a part of the properties qua which the partition could have been sought. However, the Respondents with a view to defraud the Petitioner included the said property in the plaint.

xxx xxx xxx”

(Emphasis Supplied)

16. Thus, it is the contention of the petitioner that a fraud has been played upon the petitioner, as the petitioner has been forced to enter into a settlement, with respect to the aforesaid properties, when the said properties cannot be the subject matter of any transfer.

17. Perusal of the aforesaid application filed on behalf of the petitioner



and the submissions made by learned counsel appearing for the petitioner before this Court, clearly manifest that the petitioner has raised various objections as to why the relinquishment deeds, with respect to the properties, which are mentioned therein, cannot be executed by the respondents.

18. Thus, it is palpable that the petitioner himself has raised various disputed questions of facts before this Court as regards the status of the properties in question, and on account of which, as per the petitioner, it is not possible for the respondents to execute the relinquishment deeds in his favour. Thus, in such circumstances it cannot be said that there is any willful disobedience by the respondents, of either the order dated 25th July, 2018 passed in *CS (OS) No. 45/2015* or the order dated 21st July, 2023 passed in *CONT.CAS(C) 712/2018*.

19. Rather, this Court notes that it is the petitioner himself, who has recalibrated from the consent order dated 25th July, 2018 passed in *CS (OS) No. 45/2015* and order dated 21st July, 2023 passed in *CONT.CAS(C) 712/2018*, by raising various objections that the relinquishment deeds qua the properties in question, cannot be executed by the respondents.

20. In view of the above, it is held that no contempt has been committed by the respondents. Thus, no further orders are required to be passed by this Court in the present proceedings.

21. However, liberty is granted to the respective parties to seek their legal remedies, in accordance with law.

22. The two demand drafts, that had earlier been deposited by the petitioner, with this Court and had been returned to the petitioner for their renewal, have been handed over by learned counsel for the petitioner to this



2024 : DHC : 4527



Court, during the course of the proceedings. The said two demand drafts are hereby returned to the petitioner.

23. Accordingly, *CONT.CAS(C) 1225/2023* and *CM APPL. 55545/2023* in *CONT.CAS(C) 712/2018*, are disposed of in terms of the aforesaid observations.

MINI PUSHKARNA, J

MAY 6, 2024

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