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

+ **CRL.M.C. 5322/2024**

ARVINDER SINGH

.....Petitioner

Through: Mr. Pankaj Kumar & Ms. Akanksha
Roy, Advocates.

versus

THE STATE NCT OF DELHI AND OTHERS

.....Respondents

Through: Mr. Satinder Singh Bawa, APP for
State.
S.I. Parmender Kumar, PS Rani Bagh,
Delhi.

CORAM:

HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA

ORDER

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15.07.2024

CRL.M.A. 20337/2024 (Exemption)

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

CRL.M.C. 5322/2024

3. The present Petition under Section 482 of Code of Criminal Procedure, 1973 (*hereinafter referred to as "Cr.P.C., 1973"*) has been filed on behalf of the petitioner seeking to set aside and quash the Order dated 08.02.2024 passed by learned Metropolitan Magistrate, North-West District, Rohini Courts, Delhi in Complaint Case No. 3108/2022 and Order dated 22.05.2024 passed by learned Additional Sessions Judge-05, North-West District, Rohini Courts, Delhi in CRL.REVISION No. 88/2024, dismissing



the said criminal revision by upholding the Order dated 08.02.2024 of learned Metropolitan Magistrate and allow the Application under Section 156(3) of Cr.P.C., 1973 and direct the concerned SHO to register the FIR.

4. The facts as narrated are that on 29.08.2016, the mother, Smt. Jaswinder Kaur, of the petitioner/complainant died intestate, leaving behind the following persons as the only legal heirs in respect of Property bearing No. WZ-3079A, 2nd Floor, built on Plot No. 37 comprising Khasra No. 28/8 situated in the Village Shakurpur, measuring 80 sq. yards, presently known as Mahindra Park Shakur Basti, Delhi-110034 (*hereinafter referred to as the “subject property”*): -

- (i) Shri Dayal Singh, husband,
- (ii) Smt. Kashmir Kaur, daughter, respondent No. 2 herein,
- (iii) Shri Arvinder Singh, son, petitioner herein.

5. Shri Dayal Singh, the father petitioner and the respondent No. 2 died on 18.06.2019 and he was survived by the petitioner, son as well as the respondent No. 2, the daughter.

6. The petitioner was given an understanding that the respondent Nos. 4 and 5 were the tenants in the subject property who had not vacated the same. The petitioner became suspicious and held an independent inquiry from the Office of Sub-Registrar and came to know that the respondent No.2 in connivance with her husband/respondent No. 3 had allegedly executed a Relinquishment Deed dated 27.12.2016 in respect of the subject property in favour of her father, Shri Dayal Singh and did not disclose that the petitioner herein was also entitled to a share in the subject property. On the basis of the false Relinquishment Deed dated 27.12.2016, the subject property got transferred in the name of Shri Dayal Singh, the father of the respondent No.



2 and the petitioner, who executed a Sale Deed dated 15.06.2017 in favour of the respondent Nos. 4 and 5.

7. It is further explained that the entire amount of the sale consideration was credited/utilised by the respondent No. 2 and her husband.

8. A Civil Suit bearing No. CS DJ No. 87/2020 seeking Declaration that the Sale Deed and the Relinquishment Deed are null and void. The Written Statement has been filed on behalf of the respondent Nos. 2, 4 and 5, wherein, they have come up for the first time with the Will dated 10.08.2016 of the mother, Smt. Jaswinder Kaur, bequeathing the subject property to the father, Shri Dayal Singh. The said alleged Will dated 10.08.2016 is claimed to be forged and fabricated document which never existed as the same did not find any mention in the Relinquishment Deed. Also, if the subject property stood bequeathed to the father, Shri Dayal Singh, there was no need for the respondent No. 2 to have executed a Relinquishment Deed in favour of the father, Shri Dayal Singh.

9. The petitioner had got the signatures which were on the copy of the Will dated 18.08.2016, compared through a private Handwriting Expert who has given the report that the alleged signatures of the mother, Smt. Jaswinder Kaur on the copy of the Will dated 18.06.2016 are forged and fabricated.

10. Learned Metropolitan Magistrate dismissed the Application under Section 156(3) of Cr.P.C., 1973 by observing that the complainant is in possession of all the documents, including the Will, Relinquishment Deed and the Sale Deed executed in favour of the proposed accused Nos. 3 and 4 and the accused are also known to each other. All the facts and evidence are within the knowledge and possession of the complainant/petitioner which



can be produced during trial by examining the witnesses and producing the documents. It was further observed that insofar as the disputed facts are concerned, the provision under Section 202 of Cr.P.C., 1973 may be resorted.

11. The petitioner filed a Revision Petition bearing No. CR.REV. 88/2024 under Section 397 of Cr.P.C., 1973 against the Order dated 08.02.2024 before learned Additional Sessions Judge did not find any favour. Learned Additional Sessions Judge, while accepting the observations made by the learned Metropolitan Magistrate, dismissed CR.REV. 88/2024 *vide* Order dated 22.05.2024. While dismissing the same, it was also observed that the dispute is of civil nature and Suit for Declaration has already been filed by the petitioner which is pending adjudication between the parties and is at the stage of plaintiff's evidence.

12. Learned counsel for the petitioner submits that the original Will has not been produced by the respondent No. 2 in the Civil Suit bearing No. CS DJ 87/2020 which is required to be produced and also the original Relinquishment Deed is in her possession which again has not been produced. Moreover, the scientific evidence is required for establishing the forgery, for which reason, the scientific evidence is required by way of taking the signatures of Late Smt. Jaswinder Singh and forward the same to the FSL for a comparison.

13. This argument of the counsel for the petitioner is not tenable as the petitioner can get the Handwriting Expert examined even in the civil suit proceedings. Considering that the respondent No. 2 is already a party in the Civil Suit No. CS DJ 87/2020, there is nothing which prevents the petitioner from seeking the production of the original documents in the said Civil Suit.



14. It is also pertinent to observe that the execution of the Relinquishment Deed has not been disputed by the respondent No. 2.

15. In view of above, there is no infirmity in the Order dated 08.02.2024 passed by learned Metropolitan Magistrate, North-West District, Rohini Courts, Delhi in Complaint Case No. 3108/2022 and Order dated 22.05.2024 passed by learned Additional Sessions Judge-05, North-West District, Rohini Courts, Delhi in CRL.REVISION No. 88/2024 as the petitioner can produce all the requisite evidence under Section 200 of Cr.P.C., 1973.

16. It may also be noted that the petitioner can resort to Section 202 of Cr.P.C., 1973 in case need be.

17. Accordingly, the preset petition is without any merit, which is hereby dismissed.

NEENA BANSAL KRISHNA, J

JULY 15, 2024

S.Sharma