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

+ **W.P.(C) 12574/2024**

SHRI SUNIL DHINGRA

.....Petitioner

Through: Mr. Vivek Kumar Tandon, Ms.
Prerna Tandon and Mr. Mayank
Tiwari, Advocates.

versus

GOVERNMENT OF NCT OF DELHI & ORS.Respondents

Through: Mr. Anupam Srivastava and Ms.
Sarita Pandey, Advocates for
GNCTD.

CORAM:

HON'BLE MR. JUSTICE SANJEEV NARULA

ORDER

% **09.09.2024**

CM APPL. 52251/2024 (seeking exemption)

1. Exemption is granted, subject to all just exceptions.
2. The Petitioner shall file legible and clearer copies of exempted documents, compliant with practice rules, before the next date of hearing.
3. Accordingly, the application stands disposed of.

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4. The Petitioner contends that there has been a failure on part of the Respondent to fulfil their statutory obligations under the Registration Act, 1908, and circular dated 13th September, 2016. Through the present writ petition, the Petitioner seeks directions for the Respondent to take appropriate action under Sections 82 and 83 of the Registration Act, 1908,



against those individuals who are responsible for the registration of a sale deed allegedly based on a false No Objection Certificate¹ submitted to the Registering Authority, i.e., Respondent No. 3 - Sub Registrar. Additionally, the Petitioner requests that departmental proceedings be initiated against the officials involved in the issuance of the said NOC, asserting that inaction in this regard undermines the integrity of the registration process and enables fraudulent practices to go unchecked.

5. The background leading to the filing of the present writ petition is as follows:

5.1 The Petitioner intending to purchase a parcel of land, entered into negotiations with Agrasen Estate Pvt. Ltd, the intending seller. To this effect, an Agreement to Sell was executed on 18th October, 2011. In partial fulfillment of the said agreement, the Petitioner paid a sum of Rs. 3.5 crores to Agrasen Estate Pvt. Ltd. in cash as earnest money towards the sale.

5.2 Subsequently, on 1st May, 2012, the Petitioner sent a communication to the Respondents, informing them about the aforementioned Agreement to Sell and requesting them that ensure that no mutation or NOC be issued for any further transfer of the said land. This request was made in order to safeguard the Petitioner's interests and to prevent any unauthorized sale or transaction.

5.3 Later, it came to the knowledge of the Petitioner that despite the aforementioned communication dated 1st May, 2012, the subject NOC was issued by the Respondents and on the basis thereof, a sale deed was also executed in favour of Amma Greens Pvt Ltd., Aadishi Greens Pvt Ltd. and Sh. Vikas Kejriwal. In light of this alleged illegal sale, in order to safeguard his rights,

¹ "subject NOC"



the Petitioner filed a suit for specific performance of the Agreement to Sell executed between him and the intending seller, Agrasen Estate Pvt. Ltd.

5.4 In light of such an NOC being issued despite there being a pre-existing Agreement to Sell in favour of the Petitioner, the Petitioner issued several communications to Respondent No. 1 - the Deputy Commissioner requesting them to conduct an inquiry into the issuance of the subject NOC. In response to these requests, the Tehsildar Notification *via* communication dated 7th January, 2014, informed the Petitioner that the subject NOC was not found in the official records.

5.5 Thereafter, the Petitioner also filed an application under the Right to Information Act, 2005² seeking details on the procedure for the issuance of the subject NOC, and he was informed that the subject NOC in question was not traceable. Upon further inspection of the records, the Petitioner discovered that multiple NOCs had been rejected due to pending proceedings under Section 81 of the Delhi Land Reforms Act, 1954³ initiated against the Revenue Assistant. In such circumstances, the Petitioner again approached Respondent No. 1, highlighting these findings and requesting a thorough investigation into the issuance of the subject NOC.

5.6 Pursuant to this request, an inquiry was conducted and a clear status report was issued by the Office of Tehsildar on 5th September, 2012, however, the Petitioner asserts that since the proceedings under Section 81 of the DLR Act were pending in the Court of R.A. (Mehrauli), the clear status report is erroneous and incorrect. Moreover, he submits that the Sub-Registrar permitted the illegitimate sale of the property, on the basis of such

² "RTI Act"

³ "DLR Act"



an incorrect status report issued by the Office of Tehsildar. An FIR was subsequently lodged in the matter, but it was limited to action against the Field Kanungo, excluding other individuals who may have been complicit in the fraudulent registration of the sale deed.

5.7 On 8th March, 2018, the Petitioner submitted a detailed representation to Respondent No. 1 highlighting the alleged illegalities committed by the staff of revenue department. This representation also underscored discrepancies within the clauses of the said sale deeds. According to the Petitioner, given the false declarations contained within the sale deeds, the Department was obligated to initiate proceedings under Section 82 of the Registration Act, 1908, which prescribes penalties for making false statements before the Registration Authority.

5.8 In light of the above factual background, the Petitioner places reliance on Section 83 of the Registration Act, 1908, and a circular dated 18th September, 2016, which allows authorities to initiate prosecution against individuals involved in any offence under the said Act. Therefore, through the present writ petition, the Petitioner seeks the following reliefs:

“A. To direct the respondents to initiate statutory action under Section 82 and 83 of the Registration Act, 1908 and the circular dated 13.09.2016 against the persons who are responsible for registration of Sale Deed based on false NOC submitted to the Registering Authority i.e. Sub Registrar and also take departmental action against the persons involved in issuance of false NOC dated 09.05.2012 as requested vide letter dated 22.5.2013.

Pass any other and further order(s) that this Hon’ble Court deems just and proper in the facts and circumstances of the case and in the interest of justice and equity.”

6. The Court has considered the contentions of the Petitioner but finds no reason to issue the directions sought since, in the opinion of the Court,



the Petitioner's grievance has already been substantially addressed. Notably, upon receiving the Petitioner's complaint, an inquiry was conducted by the SDM, Saket. The initial inquiry report, submitted by the SDM, Saket, on 5th May, 2015, was objected to by the Petitioner, leading to a fresh inquiry being ordered by the District Magistrate (South) on 24th September, 2015, appointing the ADM (South) as the new inquiry officer. Subsequently, the ADM (South) submitted their inquiry report dated 30th June, 2016 which reads as under:

“Observations

- 1. It has been proved beyond doubt that subsequent to the requisition for status report from the O/o Sub Registrar (V) status report bearing Nos. 206, 207 & 208 dated 09.05.2012 were provided by the O/o Tehsildar (Notification).*
- 2. It has been proved beyond doubt that the Sale Deed was registered by the Sub Registrar (V) after receipt of the requisite status report bearing Nos. 206, 207 & 208 dated 09.05.2012 from the O/o Tehsildar (Notification)*
- 3. During the enquiry proceedings, a copy of the status report No. 207 dated 09.05.2012 was provided by the complainant, which has been accepted by the concerned authorities. Hence, it is proved beyond doubt that in the present case, the status report was issued by the O/o Tehsildar (Notification) giving a clear status in respect of the land concerned and no violations u/s 81 & 33 were reported.*
- 4. The records made available during the enquiry proceedings clearly reveal that a proceeding u/s 81 of the Delhi Land Reforms Act, 1954 was pending in the Court of RA/SDM (Mehrauli) on the date on which the clear status report was issued by the O /o Tehsildar (Notification) i.e. 09.05.2012.*
- 5. The officers/officials who appeared on requisition and gave their statements gave a brief on the procedure adopted for issuance of a Status Report at the relevant point of time which is as under: -
“The Sub Registrar (V) used to issue requisition for a status report to the O/o Tehsildar (Notification), which was received by the Kanungo (Notification). It was straightforwardly forwarded to the concerned Tehsil. The report of the concerned Tehsil was received from the area Kanungo to Kanungo (Notification). The status report received from the concerned Tehsil alongwith report*



on acquisition is put up to the Tehsildar (Notification). The Tehsildar (Notification) after seeking approval of the concerned LAC, forwards the status report to the Sub Registrar, for appropriate consideration.”

6. The allegation of the complainant that a wrong status report was provided to the Sub Registrar has been proved affirmative, in the present case.
7. The statements of the officers/officials concerned reveal that the office copy of the status report as provided in the present case is not traceable since long time.
8. However, after considering the statements & the procedure as presented before the undersigned during the enquiry proceedings, it is clear that there was nothing wrong on the part of the Sub Registrar, as he had registered the sale deeds only after receipt of the clear status report from the O/o Tehsildar (Notification). As regards, the role of the Sub Registrar, there cannot be any malafide intention on his part for the non-traceability & misplacing of the office records, as it is evident that the availability of the record would have only helped his cause in the present enquiry.
9. As already discussed, it is a fact that a wrong status report was provided to the Sub Registrar on the basis of which the sale got registered, but the loss/absence/non-traceability of the concerned records hamper any clear comments for the responsibility on the part of any official/officer. However, it is observed that Shri Satish Chandra, Kanungo was involved in the process twice i.e. as Kanungo (Mehrauli) and Kanungo (Notification). He was the official responsible to forward the status report of the Tehsil provide the status on acquisition and also safe upkeep of the official records pertaining to status reports provided to Sub Registrar. The official in his statement has confirmed that the dispatch no. & date on the copy of Status Report No. 207 dated 09.05.2012 are in his handwriting. Now there can only be three possibilities for the wrong contents i.e. First the Patwari gave a wrong report, Secondly the Patwari gave a right report but it was changed or manipulated by the Kanungo. Thirdly the Patwari & Kanungo (Mehrauli) gave right report and the report was manipulated by Tehsildar (Notification) in collusion with Kanungo (Notification). It is beyond doubt the manipulation in the present matter could not have been done without the collusion of Shri Satish Chandra, Kanungo as he was having both the charge i.e. of Tehsildar & Notification. Hence it is strongly apprehended that the status report were manipulated at his level or atleast with his active connivance, however, the apprehensions cannot be well-founded in the absence of the official records. But,



he definitely is found for the loss/non-traceability of the concerned records.

10. After considering the statements & procedure of the relevant time, it is clear that the safeguarding of the office copy of the status reports should have been done at two levels i.e. O/o Sub Registrar and O/o Tehsildar (Notification). Although it is proved that there is no wrong on the part of the Sub Registrar in registration of sale deeds in the present case but he certainly should have exercised more caution & made proper arrangements for safeguarding the official records. Secondly, the records should have been mandatorily secured in the O/o Tehsildar (Notification) and the official responsible for the proper safeguarding & upkeep of records was Kanungo (Notification). The non-traceability of records from both the concerned places, definitely raises a suspicion of a foul play and rather it has been proved on record that there was a foul play in the matter as a wrong status report was provided. Hence, appropriate action should be initiated against the official i.e. Shri Satish Chandra, the then Kanungo (Notification) for loss of records.
11. It has already been confirmed in the foregoing para's that a proceeding u/s 81 of the DLR Act, 1954 was pending at the time of issuance of status reports. However, as regards the violations u/s 33 of the DLR Act, 1954, the Halqua Patwari has very confidently confirmed that there was no violation u/s 33 of the DLR Act, 1954 at the relevant point of time, as the total ownership of the seller was under consideration of sale. However, the records revealed that subsequent to the representations of the complainant and on application of the purchasers for mutation, the concerned RA/SDM has already taken cognizance u/s 42 of the DLR Act, 1954. The provision for dealing with the violation u/s 33 as enumerated in the DLR Act, 1954 can only be initiated when apparently the sale in violation is proved or registered. Further, it has been noticed that in his earlier complaints/representations although violation u/s 33 was alleged but without any ground of proof. Now, during the present proceedings, the complainant has made it clear that there was a violation of Section 33 of the DLR Act, 1954 owing to the fact that during the relevant pointy of time, the seller was also having some land in village Asola. On enquiry it has been revealed that on a plaint filed by the complainant itself before the court of RA/SDM (Saket) a case u/s 42 of the DLR Act, 1954 was instituted via case No. 058/RA/Saket/2014. Thus, the complainant has already availed his remedy before the appropriate authorities i.e. RA/SDM (Mehrauli) and RA/SDM(Saket). The complaint/grievance of the complainant is therefore already



under scrutiny of the Revenue Assistant's concerned and the same shall meet its own fate after due adjudication, hence no further comments are required in the matter as the same can influence and quasi-judicial proceedings before the Court of RA/SDM.

- 12. As already confirmed in the proceeding para's, a proceeding u/s 81 of the DLR Act, 1954 was pending against the concerned land, which was decided by the then RA/SDM (Mehrauli) vide order dated 22.10.2012 in case bearing No. 39/RA/HK/2011. The said proceedings are quasi-judicial in nature and not found fir for interference in an Inquiry. However, the said proceedings were dropped on the ground of limitation & predominant use of the suit land. It has also been confirmed during the Inquiry proceedings that no appeal to the said order was filed by the O/o BDO (South). The records reveal that the matter was put up to the Director (Panchayat) who in turn vide his minutes approved/decided that appeal is not required in the present case. His minutes dated 08.01.2023 read as "since his case is similar to GS (Illegible) vs M/s Aviation Ramp & Ors., in which the Law & Judicial Department advised against the appeal, there is no need to file an appeal being similar in nature". Hence, nothing wrong has been noticed on the part of BDO (South) in not filing an appeal to the orders of RA/SDM dated 22.10.2012.*
- 13. However, the case records provided by the O/o BDO (South) reveal institution of a fresh case u/s 81 of the DLR Act, 1954 vide Case No. 416/RA/Meh/2014 against the concerned land, with a fresh cause of action. Thus, resultantly the allegation that the new case was instituted due to the complaints filed before several Higher Authorities is unjustified and does not merit any further comments.*
- 14. Whether Sub Registrar concerned was bound to give a hearing to the complainant before registering the sale deed despite receipt of a clear land status report from the O/o Tehsildar (Notification)? It has been stated by the concerned Sub Registrar that he was an independent authority under the Registration Act, 1908. It was not a practice to give hearing to the third party complainants or objectors nor it is mandated under the provisions of law. Only where orders are received from the judicial courts or higher authorities, the same are considered during registration process. The Statement/Contention of the Sub Registrar seems justified in light of the provisions of Registration Act & procedure adopted in his office.*
- 15. The complainant has alleged conspiracy between the O/o SDM (Mehrauli), BDO (South), Sub Registrar (V), Tehsildar (Notification), Kanungo (Notification) and Halqua Patwari to giving benefit to a private individual through wrongful means. All*



the authorities & offices alleged to have entered into a conspiracy are independent authorities and by any means of imagination, they cannot be held or believed to have entered into a conspiracy to benefit a private individual in the present case. Rather, it has been observed that appropriate action on receipt of appropriate information/document like intention of proceedings u/s 81 & 42 of the DLR Act, 1954 had been initiated by the concerned authorities. Thus, resultantly, this allegation, is found to be baseless, wrong and creation of an imaginary mind.

Conclusion

1. *It has been proved beyond doubt that status report nos. 206, 207 & 208 dated 09.05.2012 contained a wrong information, but in the absence of the official records there remains an ambiguity about the responsibility of the officer/official, who manipulated the same.*
16. *However, legal opinion is being sought as to whether an FIR can be registered under the provisions of the circular No. 1(92)/Regn. Br./Div.Comm./HQ/2012/PF-II/1196 dated 13.07.2016, on account of the registry having been done on the basis of an NOC with wrong information (as reported by ADM (S), on the basis of complaint of third party, who is neither the buyer nor the seller.*
17. *Legal opinion is being sought with respect to the issue pointed out in para 16 above.”*

7. As is evident from the above, the ADM's inquiry report concludes that the issuance of the NOC was indeed based on a wrongful status report and as a result of such an inquiry report, appropriate action in the form of an FIR bearing No. 0152/2017 has been registered at Police Station Neb Sarai on 30th March, 2017. Moreover, in terms of above FIR, the Investigating Agency has filed a final report dated 14th May, 2017, which is presently pending consideration before the Court of the Metropolitan Magistrate (South), Saket Court.

8. Despite the aforementioned action taken by the Respondents, it is contended by the Petitioner that the FIR itself was incomplete and fails to capture all the alleged violations. He insists that the Respondents should



proceed to cancel the subject sale deeds and lodge a comprehensive FIR against the alleged conspirators and beneficiaries, covering all facts. In this regard, it is important to note that the Petitioner has availed their legal remedy in terms of the ongoing proceedings before the Court of Metropolitan Magistrate by filing a protest petition in the matter, seeking the rejection of the final report dated 14th May, 2017.

9. Therefore, the Petitioner's request for further directions to be issued by this Court for a more comprehensive investigation lacks merit, as the existing procedures already provide for the thorough examination of the matter and consideration of all relevant facts and allegations.

10. Thus, considering that both investigative and judicial processes are already in motion, the Petitioner has ample opportunity to raise his concerns before the appropriate forum. Furthermore, the fact that the Petitioner has already filed a protest petition before the concerned Metropolitan Magistrate demonstrates that there is indeed an avenue available to him for redressal of his grievances. The Petitioner's dissatisfaction with the scope of the FIR or the investigation are not sufficient grounds to invoke this Court's jurisdiction, particularly when there are adequate alternative remedies available. The proper course for the Petitioner is to pursue their objections in that forum, where their grievances regarding the investigation can be thoroughly examined and adjudicated. Therefore, any interference by this Court under Article 226 of the Constitution of India, at this stage, would not only be premature but would also amount to a parallel inquiry, which is neither warranted nor appropriate given the circumstances.

11. It is also pertinent to note that the Petitioner has already filed a civil suit against the intending seller, Agrasen Estate Pvt. Ltd., seeking specific



performance of the Agreement to Sell executed between them. This indicates that the Petitioner is already in the process of availing civil remedies under the appropriate jurisdiction in terms of the disputed property.

12. In view of the above, the present writ petition is disposed of along with pending application(s).

SANJEEV NARULA, J

SEPTEMBER 9, 2024/ab