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

\+ LPA 962/2024

BHATIA ESTATES PVT LTD .....Appellant

Through: Mr. Sameer Nandwani, Advocate (through VC) alongwith Mr. Nikhil, Ms. Priyanka Bhanot and Mr. S.K. Arora, Advocates.

versus

GOVT OF NCT DELHI & ANR. .....Respondents

Through: Mr. Udit Malik, ASC (Civil) alongwith Mr. Vishal Chanda, Advocate for GNCTD/R-1.
Mr. Arun Aggarwal, Mr. Shivam Saini, Mr. Praful Rawat and Ms. Ridhima Bodra, Advocates for R-2.

CORAM:
HON'BLE THE ACTING CHIEF JUSTICE
HON'BLE MR. JUSTICE TUSHAR RAO GEDELA

O R D E R

% **25.09.2024**

CM APPL. 56492/2024 (Exemption)

1. Exemption is allowed subject to all just exceptions.

2. Accordingly, present application stands disposed of.

CM APPL. 56491/2024

3. Keeping in view the averments in the application, the same is allowed and the delay of 20 days in filing the appeal is condoned.

4. Accordingly, present application stands disposed of.

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5. Present letters patent appeal has been filed challenging the order dated 30th July, 2024 passed by the learned Single Judge of this Court in W.P.(C) No.2346/2024, whereby the writ petition filed by the appellant, seeking a direction to respondent no.1/Sub Registrar VII-A, GNCTD to register the sale deed in favour of purchaser for property bearing no. 602, Pocket D-6, Saraswati Tower No.S-II, Vasant Kunj, New Delhi ("subject property"), was dismissed in view of highly disputed facts relating to the fraudulent mortgage in favour of respondent no.2/Bank of Baroda and that the factual determination is beyond the scope of writ proceedings.

6. The relevant portion of the impugned order is reproduced hereunder:

> *"8. The Petitioner submits that Respondent No. 2 is well aware that the property documents available with them are false, fabricated and bogus. This lack of due diligence and the alleged collusion with fraudsters who obtained the loan using forged documents, as argued by the Petitioner, underscores negligence on the part of the bank's officials. 1h absence of any allegation of the Petitioner's involvement in the said mortgage fraud, and the fact that the FIR No. 390/2014 does not mention any involvement of the Petitioner, Respondent No. 1 cannot refuse to register the sale deed.*
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> *9. The Court has considered the contentions of the parties and perused the material placed on record. It is observed that the Petitioner has set up the entire case without providing any evidence to substantiate the same. Neither has the Petitioner· filed any copies of title documents, through which their ownership can be established, nor have they enclosed the purported sale deed that is sought to be registered. Pertinently, it is also observed that the Petitioner has not given any details of any property sale or transaction that has taken place in relation to the said property.*

10. In the opinion of the Court, the present writ petition cannot be entertained in view of highly disputed facts relating to the fraudulent mortgage in favour of Respondent No.2. This Court's jurisdiction under Article 226 is generally not exercised in disputes involving serious or highly disputed questions of fact, particularly where these facts require evaluation of evidence. In the present case, the dispute over property ownership and the validity of the mortgage claimed by Respondent No.2 are intricately tied to the allegations of fraud, which requires detailed scrutiny of documents perhaps including forensic examination. Such a factual determination is beyond the scope of writ proceedings. The Petitioner's inability to produce any definitive title documents or evidence of legitimate transactions concerning the property only compounds this complexity.

11. Furthermore, the ongoing criminal investigation into the alleged fraudulent activities connected to the mortgage significantly impacts the civil dispute in terms of property rights. The findings from these proceedings would be crucial in establishing the factual matrix necessary to resolve the civil dispute over property ownership.

12. In these circumstances, permitting the registration of the sale deed by Respondent No.1 without resolving the title dispute could further complicate the matter. Registration of the sale deed amidst such significant ambiguity relating to title could prejudice the rights of all parties involved, particularly if subsequent findings in the criminal or civil proceedings contradict the basis of such registration. Therefore, it is prudent that such matters be deferred to a civil court, where comprehensive evidence can be presented, and all parties can be adequately heard. This would ensure that the title dispute is adjudicated with due consideration to all legal and factual complexities involved............”

7. Learned counsel for the appellant when confronted with the aforesaid reasons, admits that the appellant had not filed title documents before the learned Single Judge to prove that he is the owner of the property in question. He, however, states that he is now willing to file his title documents including the registered sale deed in his favour.

8. In view of the aforesaid, the appellant is given liberty to file a fresh writ petition on the same cause of action.

9. With the aforesaid liberty, the present appeal is disposed of. The rights and contentions of all the parties are left open.

ACTING CHIEF JUSTICE

TUSHAR RAO GEDELA, J

SEPTEMBER 25, 2024
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