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

+ **CRL.M.C. 5011/2017**

KAPIL TYAGI

.....Petitioner

Through: Mr. D.V. Khatri, Mr. Anurag
Sharma, & Ms. Harshita Khatri,
Advs.

versus

MOOL RAJ TYAGI & ORS

.....Respondents

Through: Mr. R S Verma & Mr. Aditya Singh,
Advs. for R-3 & 4

CORAM:

HON'BLE MR. JUSTICE ANISH DAYAL

ORDER

08.08.2024

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1. This petition is filed assailing impugned order dated 19th August 2017 whereby the revision filed by petitioner assailing order dated 25th January 2017 passed by the Metropolitan Magistrate was dismissed. By the Metropolitan Magistrate's order, application under Section 156 (3) Cr.P.C. had been dismissed.

2. The facts as stated in the impugned order essentially are that petitioner had filed a complaint stating that the property bearing Khasra No. 107/1, measuring 1700 Sq. yds. situated in the revenue estate of Village-Hastal, Uttam Nagar, New Delhi, was purchased by the father of petitioner in 1977 and physical possession was taken by the father of petitioner. After the passing away of petitioner's father in July 1981, the property is inherited by petitioner, which forms part of Lal Dora land.

3. In 2009, as per petitioner, a frivolous suit was filed by respondent for declaration, permanent injunction and recovery claiming ownership of the property on basis of a lease agreement dated 1st September 2009. As per



petitioner, since the lease agreement was forged and fabricated, petitioner filed an application under Section 156 (3) Cr.P.C. on the basis that the documents of respondent were forged and fabricated. The said application was dismissed by the Metropolitan Magistrate after assessing the records of the matter.

4. The impugned order also notes that the suit is already before a Civil Court where the lease deed has been propounded and it would be determined whether the documents are genuine or not. There was no reason to allow application under Section 156 (3) Cr.P.C. in this situation.

5. It is noted that application under Section 156 (3) Cr.P.C. was filed in 2016, 7 years after the suit was filed. Further, the respondent has adverted to order dated 3rd May 2018 of the Civil Court, where it is stated that original lease of 1st September 2009 has been filed on record.

6. It is also noted that petitioner is in possession of the property and claim is being made by respondent on the basis of lease agreement which has been propounded by the Civil Court to determine whether the documents are genuine or not and as to what rights accrue from such documents, if at all.

7. This Court does not find any infirmity in the said order.

8. Accordingly, this petition is dismissed.

9. As regards complaint under Section 200 Cr.P.C. filed by the petitioner is concerned, needless to say that he is at liberty to pursue the same. No directions are required, since it does not form subject matter of the present petition.

10. Order be uploaded on the website of this Court.

ANISH DAYAL, J

AUGUST 8, 2024/sm