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

+ **CRL.M.C. 3319/2021**

SH. BALVINDER SINGH

.....Petitioner

Through: Appearance not given.

Versus

STATE GOVT. NCT OF DELHI & ORS.

.....Respondent

Through: Mr. Satinder Singh Bawa, Ld. APP
for State.

CORAM:

HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA

ORDER

17.01.2025

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1. A Petition under Section 482 Cr.P.C has been filed to challenge the Order dated 01.11.2021 vide which the learned ASJ has upheld the Order of the learned M.M dated 09.11.2015 dismissing the Complaint filed on behalf of the Petitioner.

2. The Petitioner had filed a Complaint under Section 406/467/468/471/419/420/120-B IPC against the accused persons on 24.11.2018, on the averments that he had entered into an Agreement to Sell the Suit Property i.e. Plot No.WZ-14/50-A, Vishnu Park, New Delhi on 12.08.2005 in respect of which the Sale Deed was duly executed in his favour on 27.09.2005. Subsequently, the Petitioner came to know that the land was indicated to be 60 sq. yds. but actually was found to be measuring 57.5 sq. yds. Furthermore, it was also found that Respondent No.2 had



earlier executed a General Power of Attorney in favour of third party to whom the Petitioner was compelled to pay Rs.70,000/-.

3. It was asserted in the Complaint that the property had been sold by misrepresentation and he has been made to pay excess money for purchase of the property.

4. The learned M.M in the impugned Order dated 24.09.2019 observed that admittedly a Complaint on identical facts was filed on 10.02.2014, but the same was withdrawn by the Petitioner on 09.11.2015 on the ground that the Petitioner was too old to pursue the Complaint. It was noted that the said Complaint was withdrawn without any force, pressure or coercion and no liberty was taken while withdrawing the Complaint.

5. The learned M.M in the ikmpugned Order dated 09.11.2015 thus, observed that once an earlier Complaint on the same facts has already been withdrawn, Complaint was not maintainable. The learned ASJ in the impugned Order dated 01.11.2021 found no infirmity in the Order of learned M.M and dismissed the Revision Petition.

6. The **learned Counsel for the Petitioner** has not been able to show any impropriety in the impugned Order. It is a known fact that the Criminal machinery cannot be misused and abused only to settle their cause. Pertinently, the Agreement to Sell entered into by the Petitioner with the Respondent got duly honoured and Sale Deed dated 27.09.2005 got executed in his favour. After 2005, the first Complaint came to be filed in October, 2014 apparently with no grievance for almost 9 years. Then too, the grievance only is that the plot turned out to be smaller by 2.5 sq. yds. If so was the case, *firstly*, the Petitioner himself was responsible to ensure the correct measurements of the property at the time of the purchase. His own



dereliction cannot be converted into any kind of criminal action on the part of the seller. Moreover, at best he could have sought recovery of alleged excess amount of 2.5 sq. yds for which no steps have been taken within three years of execution of the Sale Deed.

7. The second allegation is that he had been made to pay Rs.70,000/- to a third party. Even if he has paid Rs.70,000/-, there is nothing to show that the present Respondents are in any way responsible for having made the payment of Rs.70,000/-. In any case, if he feels that it has been wrongly paid by him, he could have pursued the civil remedy.

8. There is no infirmity in the impugned Order and the present Petition is hereby dismissed.

NEENA BANSAL KRISHNA, J

JANUARY 17, 2025/va