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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **CM(M) 1363/2022 & CM APPL. 52584/2022**
REKHA RANI

.....Petitioner

Through: Ms. Sana Ansari and Mr. I. Ahmed,
Advocates.

versus

SWARN YADAV

.....Respondent

Through: Mr. Varun Mudgil, Mr. Mohit
Mudgal, Mr. Rakesh Kumar, Ms. Eti
Kushwaha and Mr. Ansh Sharma,
Advocates.

CORAM:
HON'BLE MR. JUSTICE MANOJ JAIN

ORDER
17.03.2025

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1. Petitioner is plaintiff before the learned Trial Court and in her such suit, she, *inter alia*, prayed for a decree of specific performance, based on *agreement to sell* dated 09.07.2015.
2. The above *agreement to sell* was placed on record by her and the learned Trial Court has impounded the same and directed such impounded document to be sent to the Collectorate of Stamps to determine the appropriate stamp duty and penalty, if any.
3. Such order dated 23.08.2022 is under challenge.
4. The prime grievance of the petitioner is that the stage of tendering the aforementioned document had not yet been reached and, therefore, it was premature to have impounded the aforementioned agreement.

CM(M) 1363/2022

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5. Learned counsel for the respondent, whereas, submits that the present petition has become infructuous in the sense that as per the directions contained in order dated 08.02.2023 passed by this Court, learned Trial Court was granted liberty to proceed further with the matter in accordance with law and simultaneously, the rights of the respondent herein were also protected by permitting him to take proper objections during the trial.

6. It is submitted by him that in view of the abovesaid liberty granted to him, the respondent, i.e., the defendant, moved an application under Section 35 of the Indian Stamp Act, 1899, read with Section 151 CPC, and the abovesaid application has been fixed for reply and arguments and next date is stated to be 06.08.2025.

7. He submits that in view of the aforementioned development whereby the Court is considering his aforementioned application moved under Section 35 of the Indian Stamp Act, 1899, thereby relooking into the aspect of impounding the abovesaid document, the impugned order pales into significance.

8. During the course of the arguments, I have been shown a copy of the order dated 30.09.2024 passed by the learned Trial Court whereby the case has been fixed for reply and arguments on such application.

9. Since the abovesaid application has already been entertained by the learned Trial Court and even the reply has been sought from the petitioner, the present petition is accordingly disposed of with direction to the learned Trial Court to consider the abovesaid application and to dispose of in accordance with law, after hearing both the parties and without being influenced by its own previous order dated i.e. order dated 23.08.2022 which is impugned herein. Learned Trial Court is requested to decide the



aforementioned application as expeditiously as possible and preferably, within a period of four weeks from the next date fixed before it.

10. Needless to clarify, this Court has not given any opinion with respect to the fact whether the aforementioned agreement can be impounded or not and it is for the learned Trial Court to hear the matter and then to take appropriate call afresh, in accordance with law.

11. Learned counsel for the respondent, in all fairness, also submitted that, without prejudice to his rights and contentions, he would make a request before the learned Trial Court, directing the Collectorate not to proceed further with the matter till the aforementioned application is decided by the Court. Let it be done.

12. A copy of this order be given *dasti* to both parties.

MANOJ JAIN, J

MARCH 17, 2025/ss/shs