



2025:DHC:9331



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**% *Date of decision: 14th October, 2025*+ **CRL.M.C. 1665/2018, CRL.M.A. 6006/2018 & 37759/2019****SMT. SUKHI DEVI**

W/o Late Ganpat Ram,
R/o B-580, J. J. Colony,
Hastsal Road, Uttam Nagar,
New Delhi-110059.

.....Petitioner

Through: Mr. U. M. Tripathi and Mr. Utsa
Srivastava, Advocates

versus

1. **MR. TARA CHAND**
S/o Late Vishni Devi
R/o 8/6, Amrit Kaur Puri,
Double Storey, Sat Nagar,
Karol Bagh,
New Delhi-110005
2. **MR. SHRAVAN**
S/o Late Vishni Devi
R/o 100 Quarter (San Quarter),
H.No.10818, Gali No.3,
Karol Bagh,
New Delhi-110005
3. **MR. GOPAL**
S/o Late Vishni Devi
R/o 8/6, Amrit Kaur Puri,
Double Storey, Sat Nagar,
Karol Bagh,
New Delhi-110005
4. **MR. SONU @ SOHAN LAL**
S/o Late Vishni Devi



R/o Pocket-II, H. No. 180,
Paschim Puri
New Delhi-110063

5. **MRS. MEENU**
R/o A-550, Pandav Nagar,
New Delhi
 6. **SMT. SANTOSH**
R/o 30/10, Ashok Nagar,
Tilak Nagar,
New Delhi-110018
 7. **SMT. INDRA**
R/o House No.B-560,
J.J. Colony, Hastal,
Uttam Nagar, New Delhi
 8. **SMT. PARVEEN BALA**
R/o H.No.7/3, Amrit Kaur Puri,
Double Storey, Sat Nagar,
Karol Bagh,
New Delhi-110005
 9. **STATE**
Govt. of NCT of Delhi.
-Respondents
- Through: Mr. Rohit Oberoi, Advocate for R-1
to R-5

CORAM:
HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA

J U D G M E N T (oral)

1. Petition under Article 227 of the Constitution of India read with Section 482 of the Code of Criminal Procedure, 1973 (*hereinafter referred to as "Cr.P.C."*) for setting aside the Order dated 18.01.2018 passed by the Ld. ASJ, Tis Hazari Courts, Delhi, upholding the Order dated 02.11.2016 of



the Ld. MM, Delhi dismissing the Application under Section 156(3) Cr.P.C. filed by the Petitioner, Smt. Sukhi Devi.

2. *The brief facts and the case of the Petitioner* are that the Respondents herein had allegedly grabbed the property and sold it to a third party. It is the claim of the Petitioner that the property bearing Flat No. 8/6, Amrit Kaur Puri, Double Storey, Satisfactory Nagar, Karol Bagh, New Delhi-110005 ("**Subject Property**") belongs to her. On 05.11.1962, the Suit Property was allotted to Sh. Dudha Ram, father of Sh. Ganpat Ram, husband of Smt. Sukhi Devi, the Complainant. On 30.11.1965, Sh. Dudha Ram passed away, leaving behind his wife, Smt. Sukhi Devi, the Petitioner. The Respondents are the legal heirs of Late Smt. Vishni Devi, sister of Sh. Dudha Ram. It is alleged that the Respondents have falsely created a forged Will dated 21.11.2011 and have sold the Subject Property on the basis thereof.

3. It is the case of the Petitioner that around March 1971, Smt. Vishni Devi approached Sh. Ganpat Ram and requested him to allow her to use the subject Property for residential purposes, as her condition was not good and she had no accommodation. Out of love and affection, she was allowed *as a licensee* to reside therein, during her lifetime.

4. In March 2012, Smt. Vishni Devi passed away and the said license stood revoked. In April 2012, after the rituals, the Petitioner asked the Respondents to vacate the Subject Property, for which they sought six months' time. A similar request was made again in November 2012. Thereafter, on 07.07.2015, the Petitioner issued a Legal Notice to the Respondents to vacate the Subject Property.

5. On 13.07.2015, a Complaint was made to the Police apprehending



induction of strangers into the Subject Property. On 24.07.2015, the Subject Property was sold by the Respondents within a couple of days of receiving the Legal Notice, although the said property was inalienable. On 27.07.2015, the Respondents sent a Reply to the legal notice dated 07.07.2015, in which for the first time, a Will dated 21.11.2011 was mentioned, asserting that the Subject Property was freehold.

6. On 03.08.2015, another Complaint was filed with the Police, alleging that a forged Will dated 21.11.2011 had been created by the Respondents. Similar complaints were also made on 28.09.2015 to the DCP Office and again on 20.11.2015 regarding the creation of the forged Will.

7. In January 2016, the Petitioner received an Inquiry Report through RTI, whereby the Police refused to register the FIR. On 08.03.2016, the Petitioner made another Complaint to the Special Commissioner of Police, but no action was taken. Thereafter, an Application under Section 156(3) Cr.P.C. was filed before the Court of the Ld. MM, in which vide Order dated 04.04.2016, specific queries were put to the Police.

8. On 07.06.2016, the Police submitted the same Report that had earlier been given to the Petitioner through RTI, without answering the specific queries. Consequently, on 02.11.2016, the Ld. MM dismissed the Application under Section 156(3) Cr.P.C. filed by the Petitioner, by observing that the allegations relate to illegal occupation of the subject Property by the Respondents. Therefore, directions under Section 156(3) Cr.P.C. were not required, as the identity of the proposed accused persons was already ascertained, their custodial interrogation was not necessary, no new facts were required to be unearthed, and the evidence was well within the reach of the Complainant.



9. The Petitioner preferred a *Revision Petition* against the Order dated 02.11.2016, which was also dismissed *vide* impugned Order dated 18.01.2017. Ld. ASJ noted that a Civil Suit for Declaration and Injunction has been filed against the Respondents; however, no interim injunction was granted. The Complaint Case filed by the Petitioner was still pending and that the matter has been fixed for pre-summoning evidence. It was also observed that there exists a proper procedure in law for seeking a declaration that the Impugned Will is forged, fabricated, or *non-est*. The facts alleged in the Complaint were found to reflect that the dispute between the parties was essentially of civil nature, pertaining to ownership of the Subject Property. Accordingly, the Revision Petition was dismissed *vide* Order dated 18.01.2018 with costs of Rs. 20,000/- for using unwarranted expressions against the Ld. MM.

10. The present Petition has been filed on the **ground** that the Order dated 02.11.2016 passed by the Ld. MM, which was assailed in Revision, is grossly illegal and a mere “*cut and paste*” Order. The grounds taken by the Petitioner were not appreciated by both the Ld. MM as well as the Ld. ASJ. The Impugned Order dated 02.11.2016 even mentions a different name, different Police Station, and a different Complaint No. and it appears that the stenographer did not even bother to delete the names and particulars of the parties from the Order from which the material was copied.

11. It is submitted that the Revisional Court has wrongly noted that it is not the case of the Petitioner that the said Order is unreasoned, or that the reasoning given by the Ld. MM is not appropriate. Reliance has been placed on the judgment of the Hon’ble Supreme Court in Lalita Kumari v. Govt. of Uttar Pradesh (2014) 2 SCC 1, to state that the law on registration of FIR is



well settled, whereas the Ld. MM relied upon outdated judgments of the High Courts.

12. It is submitted that the Ld. ASJ has wrongly observed that on 04.04.2016 certain inquiries were made by the Ld. MM, and the report was filed in due course of time, and after perusal and consideration, arguments on the Application under Section 156(3) Cr.P.C. were heard. However, in reality, none of the questions were answered specifically by the Police. The Police sought time to file a Status Report and then submitted an ambiguous and general Report. This shows that the matter was not considered with a judicial mind.

13. It is submitted that the Ld. ASJ has wrongly observed that the Civil Court has not issued any injunction order i.e., stay on the operation of the Impugned Will. It is submitted that an attempt is being made to unnecessarily mix and confuse the civil and criminal aspects, which operate in two different spheres. The non-grant of stay on the Will in question, does not in any manner fetter the Revisional Court's power to direct registration of an FIR. The declaration of the said Will as null and void can only occur after the conclusion of a long-drawn trial, which the opposite party is deliberately prolonging.

14. It is submitted that the Ld. ASJ has erred in observing that there are no findings of any Court, Authority or FSL that the Will dated 21.11.2011 is forged or fabricated. The Ld. ASJ has wrongly held that the Petitioner herself did not request the Ld. Civil Court to send the impugned documents for expert opinion. The Ld. ASJ has, thus, jumped the gun and failed to appreciate that the original Will is not traceable, and no one including the Police, claims to have seen it. Therefore, Police investigation is necessary



for proper inquiry and recovery of the alleged Will dated 21.11.2011.

15. Reliance has also been placed on Section 73 of the Indian Evidence Act, 1872, to show that when the dissimilarity in signatures is so apparent that even a non-expert can discern that the two are not of the same person, the Court may base its conclusion on such comparison alone. The fact that the Will dated 21.11.2011 is not probated and that the Subject Property was sold by the Respondents within a couple of days of receiving the legal notice despite giving an Undertaking to DUSIB not to alienate the property, is sufficient to raise a presumption that the impugned Will is false. It is submitted that the proposed accused persons gave an Undertaking to DUSIB at the time of getting the property free-hold in February 2015 that they would not alienate the Subject Property for the next five years, yet they sold it within 20 days of receiving the legal notice from the Petitioner's counsel.

16. The Ld. ASJ has wrongly held that the identity of the accused persons being ascertained is merely a matter of record, which even the Petitioner does not dispute. This observation is baseless, as no investigation has taken place. The Petitioner has repeatedly stressed that more persons are involved beyond these eight individuals, who are the siblings and immediate beneficiaries of the criminal act.

17. The Ld. ASJ has erred in observing that the dispute between the parties is purely civil in nature, pertaining to ownership of the property, for which a suit for Declaration has already been filed.

18. *Accordingly, it is prayed that the Impugned Order dated 18.01.2018 be set aside and directions be issued to the Police for registration of the FIR against the Respondents.*

19. ***Respondent Nos. 1, 3, 6, 7, and 8, in their Reply have*** stated that the



present Petition has been filed with an ulterior motive and is a gross abuse of the process of law. It is alleged that the same has been filed to entangle the Respondents in vexatious litigation and to cause them mental agony. It is further submitted that the Petitioner has concealed and suppressed vital material facts and has not approached this Court with clean hands.

20. It is explained that Sh. Ganpat Ram, husband of the Petitioner, was an alcoholic and was therefore, was asked by Sh. Dudha Ram to vacate the house. Ganpat Ram shifted with his family to Uttam Nagar in December 1963. It is submitted that neither the Petitioner nor her husband has been in possession of the Subject Property since then.

21. It is submitted that Late Smt. Vishni Devi took care of her father, Late Sh. Dudha Ram, and was very affectionate towards him, due to which he, of his free will and consent, executed a Will dated 15.12.1964 in her favour during his lifetime. Therefore, it is submitted that the Respondents are the owners of the Subject Property by virtue of the Will dated 21.11.2011, through which Late Smt. Vishni Devi bequeathed her entire property to them. Thereafter, a Conveyance Deed dated 18.04.2015 was executed between the Slum and J.J. Department, MCD, with respect to the said property, whereby the Subject Property became freehold. It is further submitted that *vide* Relinquishment Deed dated 24.09.2014, the legal heirs of Late Smt. Vishni Devi, namely, Smt. Santosh, Smt. Indra, Smt. Parveen Bala, Smt. Meenu (Respondent No. 5), Sh. Sohan Lal, and Sh. Sharwan Kumar (Respondent No. 2), relinquished their shares in favour of Respondent Nos. 1 and 2. Therefore, the Petitioner has no locus standi to file the present Petition, as she has no right or interest in the Subject Property.

22. The Petitioner has failed to produce any document to show that the



alleged License was ever executed by Late Sh. Ganpat Ram in favour of Late Smt. Vishni Devi, which shows that the story is merely concocted.

23. It is submitted that the Respondents have already sold the Subject Property to one Smt. Rita Goel vide Sale Deed registered as Document No. 5710 in Book No. 1, Volume No. 16108, pages 37–44, dated 27.07.2015. Therefore, there exists no cause of action against the Respondents.

24. *Accordingly, it is prayed that the present Petition be dismissed.*

Submissions heard and record perused.

25. *The short issue involved is whether the Order dated 18.01.2018 of LD. ASJ upholding the Order of Ld. MM dismissing the Application under S.156(3) for directing registration of the FIR on the allegations that the Respondents have acquired possession of the Subject Property on the basis of alleged forged Will dated 21.11.2011, is justified.*

26. The present case arises from an alleged dispute relating to a property that was originally allotted to Late Sh. Dudha Ram, who had one son, Late Sh. Ganpat Ram, and one daughter, Smt. Vishni Devi. The present dispute is between the widow of Sh. Ganpat Ram, i.e., the Petitioner, and the legal heirs of Late Smt. Vishni Devi, i.e., the Respondents.

27. The **primary allegation** made by the Petitioner is that the Respondents have forged a Will dated 21.11.2011, on the basis of which they have usurped the Subject Property and subsequently sold it upon receiving a Legal Notice dated 21.11.2011.

28. The most pertinent question which arises for consideration is whether the facts and circumstances in this case warrant the directions under S.156(3) for the registration of FIR.

29. In Skipper Beverages Pvt. Ltd. v. State, 2001 SCC OnLine Del 448,



the Coordinate Bench of this Court has explained the scope and powers of the Magistrate in giving directions for the registration of an FIR under Section 156(3). It was succinctly observed that;

*7. It is true that Section 156(3) of the Code empowers a Magistrate to direct the police to register a case and initiate investigations but this power has to be exercised judiciously on proper grounds and not in a mechanical manner. **In those cases where the allegations are not very serious and the complaint himself is in possession of evidence to prove his allegations there should be no need to pass orders under Section 156(3) of the Code.** The discretion ought to be exercised after proper application of mind and only in those cases where the Magistrate is of the view that the nature of the allegations is such that the **complaint himself may not be in a position to collect and produce evidence before the Court and interests of justice demand that the police should step in to help the complaint.** The police assistance can be taken by a Magistrate even under Sec. 202(1) of the Code after taking cognizance and proceeding with the complaint under Chapter XV of the Code as held by Apex Court in 2001 (1) Supreme page 129 titled “Suresh Chand Jain v. State of Madhya Pradesh & Ors.”*

30. Therefore, the power under Section 156(3) CrPC must be exercised only after the Magistrate applies his mind and is satisfied that the allegations are serious, that the complainant cannot gather the necessary evidence on their own, and that police investigation is necessary.

31. In the present case, it is undisputed that the Subject Property was originally allotted to Late Sh. Dudha Ram in the year 1962. The dispute in regard to ownership of the same, is now being claimed by the Petitioner, daughter-in-law and the legal heirs of Smt. Vishni Devi, daughter of Late Sh. Dudha Ram, on the basis of Will dated 21.11.2011. Admittedly, a Civil Suit is already pending before the Ld. Civil Judge, Central Delhi, instituted



by the Petitioner for declaration of the Will as *null and void*.

32. The case of the Complainant is that the Will dated 21.11.2011 relied upon by the Respondent, is a forged and fabricated document and that the original Will needs to be traced. However, the alleged Will is of 21.11.2011 and is claimed to have been submitted to DUSIB for getting the Conveyance Deed 23.04.2015 registered. The Respondent has denied the possession of alleged original Will and it can be summoned from the Respondent under the provisions of the Cr.P.C., and therefore, police assistance is not necessarily required, at this stage.

33. Furthermore, it is not as if the Ld. Trial Court has refused to register the FIR, but has merely dismissed the Application under Section 156(3) Cr.P.C. and has continued with the Complaint under Section 200 Cr.P.C. Essentially, the allegations made herein are documentary and ocular, which can very well be led by the Petitioner. The Ld. MM has also rightly observed that the identity of the proposed accused stands ascertained.

34. In case, any police assistance is required, the same can be still resorted to under Section 202 Cr.P.C. as has been held by the Apex Court in the case of “*Suresh Chand Jain v. State of Madhya Pradesh & Ors., 2001 (1) SCC 129*.”

35. A ground has been taken by the Petitioner that the Order dated 02.11.2016 of the Ld. MM, is nothing but a “*copy-paste*” order. To substantiate this, reliance is placed on certain incorrect details mentioned in the Order. It is important to observe that this aspect has been duly considered by the Ld. ASJ that the Ld. MM has duly applied his mind, which is evident from a perusal of the Order dated 02.11.2016, where both, the facts and the settled law under Section 156(3) Cr.P.C. ,have been duly



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appreciated. A mere clerical error, cannot be used as a ground to challenge an otherwise well-reasoned Order.

36. Considering the totality of circumstances, the learned ASJ has rightly upheld the Order of the learned MM dismissing the Application under Section 156(3) Cr.P.C. for registration of FIR.

37. There is no infirmity in the impugned Order and the Petition is hereby dismissed. Pending Applications, if any, are accordingly disposed of.

NEENA BANSAL KRISHNA, J.

OCTOBER 14, 2025/R