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

\+ W.P.(C) 10420/2018

M/S INDRAESH DEVELOPER (P) LTD. .....Petitioner

Through: Ms. Ayushi Aggarwal, Adv. for Mr. Mukesh Goyal, Adv.

versus

GOVT. OF NCT OF DELHI & ORS. .....Respondents

Through: None.

CORAM:
HON'BLE MR. JUSTICE YASHWANT VARMA
HON'BLE MR. JUSTICE HARISH VAIDYANATHAN SHANKAR

ORDER

% **12.02.2025**

1. This writ petition has been preferred seeking the following reliefs:-

> "a. quash the letter date 15.03.2010 or any other letter/order issued by Respondent no. 4 thereby and to the extent it relates to the subject property i.e. property bearing no. 64 and 64A, Upper Second Floor, Regal Building, Connaught Place, New Delhi in the interest of justice.
>
> b. quash the letter having reference no. F.SR-VII/485 date 23.08.2026 issued by Respondent no. 2 whereby Respondent no. 2 refused to register the documents and direct the Respondent no. 2 to register the documents GPA and Will presented for registration vide temporary registration no. 11077 and 11083 qua the property bearing no. 64 and 64A, Upper Second Floor, Regal Building, Connaught Place, New Delhi in the interest of justice.
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> c. Any other or further writ, order or direction which this Hon'ble Court may deem fit and proper under the facts and circumstances of the case be also issued in favour of the petitioner and against the Respondents."

2. As is evident from the above, the challenge principally is to the attachment of the subject property. From the disclosures which are

made in the writ petition, we find that the principal grievance is with respect to the attachment of the flat in question as well as the refusal by the Sub-Registrar-VII to register a **General Power of Attorney**[1] dated 28 March 2016.

3. Insofar as the refusal to register the GPA is concerned, we find no merit in the challenge that stands raised, bearing in mind the judgment of the Supreme Court in **Suraj Lamp & Industries (P) Ltd.(2) vs. State of Haryana**[2]**.**

4. That only leaves us to examine the validity of the attachment, which has been made by and at the behest of the Income Tax Department.

5. We find that the flat itself is stated to have been purchased by one Mr. Romesh Sharma on 14 March 1996 from one Mr. Sardar Bhagwant Singh for a consideration of INR 10 lakhs. The aforesaid purchaser is thereafter stated to have transferred the subject property to Mr. T.R. Anand.

6. On 20 October 1998, a search is stated to have been conducted upon Mr. Romesh Sharma by the Central Bureau of Investigation as well as the Income Tax Department. Pursuant to documents unearthed during the course of that search, an assessment order referable to Section 158BC of the **Income Tax Act, 1961**[3] came to be drawn against the said assessee and which culminated in the issuance of a notice of demand. It is pursuant to the aforesaid demand that the property appears to have come to be attached by the Department.

7. The respondents further disclose that on 19 December 2006, the assessee is stated to have entered into a compromise with Mr. T.R.

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[1] GPA
[2] (2012) 1 SCC 656
[3] Act

Anand and relinquished his right in the subject property for what the respondents describe as a meager amount of INR 5 lakhs. It is pursuant to the aforesaid and asserted compromise that Mr. T.R. Anand thereafter conveyed the property to the present petitioner vide an Agreement to Sell dated 13 May 2008.

8. However, and as is manifest from the recital of facts, the tax liability and pursuant to which the attachment was effected had already come into existence prior to the relinquishment which was made by Mr. Sharma and the compromise entered into by him with Mr. T.R. Anand.

9. It is in the aforesaid context that we bear in mind the following provisions, which are contained in Section 281 of the Act: -

> **"281. Certain transfers to be void-**
> (1) Where, during the pendency of any proceeding under this Act or after the completion thereof, but before the service of notice under rule 2 of the Second Schedule, any assessee creates a charge on, or parts with the possession (by way of sale, mortgage, gift, exchange or any other mode of transfer whatsoever) of any of his assets in favour of any other person, such charge or transfer shall be void as against any claim in respect of any tax or any other sum payable by the assessee as a result of the completion of the said proceeding or otherwise.
> **Provided** that such charge or transfer shall not be void if it is made:-
> (1) for adequate consideration and without notice of the pendency of such proceeding or, as the case may be, without notice of such tax or other sum payable by the assessee.
> (ii) with the previous permission of the Assessing Officer.
> (2) This section applies to cases where the amount of tax or other sum payable or likely to be payable exceeds five thousand rupees and the assets charged or transferred exceed ten thousand rupees in value.
> Explanation - In this section, "assets" mean land, building, machinery, plant, shares, securities and fixed deposits in banks, to the extent to which any of the assets aforesaid does not form, part of the stock-in-trade of the business of the assessee. "

10. In view of the aforesaid and since the demand under the Income Tax Act had come to be finalized and had crystallized prior to the

transaction to which the writ petitioner was a party, we find no merit in the challenge which stands raised.

11. The writ petition fails and shall stand dismissed.

YASHWANT VARMA, J

HARISH VAIDYANATHAN SHANKAR, J

FEBRUARY 12, 2025/RW