



2026:DHC:3602



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **W.P.(C) 8329/2023 and CM APPL. 31888/2023, CM APPL. 31889/2023**

Date of Decision: **08.04.2026****IN THE MATTER OF:**

MRS. KIRAN AGGARWAL

.....Petitioner

Through: Mr. Nanju Ganapathy, Sr. Advocate,
with Mr. Aman Sharma, Mr. Subhan
Shankar Gogoi, Mr. Akshat Rathore,
Ms. Nidhi Jain, Advocates.

versus

GOVERNMENT OF NCT OF DELHI AND ORSRespondents

Through: Mr. Abhinav Sharma, Ms. Avsi
Malik, Mr. Ujjwal Jain, advs. for R-1
& 2.
Mr. Arun Birbal and Mr. Sanjay
Singh adv. for DDA.
Mr. Avadh Bihari Kaushik and Mr.
Rishabh Kumar Advocates for R-6.

CORAM:**HON'BLE MR. JUSTICE PURUSHAINDRA KUMAR KAURAV****JUDGEMENT****PURUSHAINDRA KUMAR KAURAV, J. (ORAL)**

1. The petition is, primarily, for setting aside the registration of Sale Deed dated 20.09.2022 (**Sale Deed**), purportedly executed between one Mrs. Kiran Agarwal (**Vendor**) and respondent no. 6-Mr. Ranbir Singh (**Vendee**) with respect to property bearing no. 6, Rohini Residential Scheme, Pocket

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No. H-4, Sector No. 11, Rohini, New Delhi-110085.

2. The petitioner claims to be the owner of the property in question by virtue of Agreement to Sell dated 26.11.1997 and Conveyance Deed dated 03.10.2011. According to her, in the year 2023, she became aware of electricity bills pertaining to the said property being issued in the name of respondent no. 6 and subsequently, the registration of the impugned Sale Deed.

3. A perusal of order dated 20.09.2022 issued by respondent no. 1-Sub Registrar VIC (Rohini) annexed to the impugned Sale Deed would indicate that the same was first presented for registration on 24.08.2018. However, owing to non-submission of the vendor's identification documents, the concerned Sub-Registrar passed a formal order dated 31.08.2018 refusing registration.

4. Respondent no. 6 appealed against the said order before the concerned Registrar, under Section 72 of the Registration Act, 1908 (Act). The said appeal was disposed of *vide* order dated 19.07.2021, permitting the parties to produce the required documents before the Sub-Registrar within thirty days. The Sub-Registrar was also directed to register the Sale Deed upon satisfaction of compliance with the requirements under the Act.

5. It appears that on 09.08.2021, only respondent no.6 presented himself before the Sub-Registrar. However, neither was the vendor present, nor were her identification documents produced before the Sub-Registrar. Therefore, he issued summons dated 09.09.2022 directing both parties to remain present on 19.09.2022, along with identification documents. The said summons, however, was unserved on the vendor and was returned by the postal department as 'unclaimed'. The vendor again failed to remain present

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for registration on 19.09.2022, subsequent to which, the Sub-Registrar has proceeded to issue order dated 20.09.2022, whereby, registration of the Sale Deed in question has been refused *qua* the vendor, and allowed *qua* the vendee-respondent no. 6. The relevant portion of the said order is extracted below, for reference:

“The said summon dated 09/09/2022 was not served upon Smt. Kiran Aggarwal, the First Party, as the communication was returned by the postal department with the remarks that construction activities are ongoing there and no claimant was there to receive the summon. As such, the First Party, Smt. Kiran Aggarwal failed to make herself present in 19/09/2022 too and therefore, the Registration of the sale deed in reference is refused in qua towards Smt. Kiran Aggarwal, the vendor. Sh. Ranbir Singh, the vendee appeared and admitted execution with original adhar card (UID No: 3036 6557 3039) and and pan card (No: JKGPS9169M) in the presence of witnesses Sh. Vineet Kumar Gera (13779 2875 1939) and Sh. Prashant Kumar (9572 4615 0189) and therefore, in compliance with the directions of the order passed by the Dy. Commissioner/Registrar (North) dated 19.7.2021 and subsequent instructions dated 06.09.2022, the Registration of the sale deed in reference is allowed qua towards Sh. Ranbir Singh, the vendee.”

6. The petition is opposed chiefly by Respondent no. 6-vendee, who is the contesting respondent.

Submissions.

7. Mr. Abhinav Sharma, learned counsel for respondent no. 1, submits that the registration of the Sale Deed was pursuant to the order dated 19.07.2021 passed by the concerned Registrar.

8. Mr. Avadh Bihari Kaushik, learned counsel on behalf of the said respondent, submits that the petitioner is not the actual owner of the property in question, and claims that the vendor is a different ‘Kiran Aggarwal’. He claims that the complete chain of documents relating to the property in question is in the possession of respondent no. 6. According to him, the dispute being agitated herein is purely civil in nature and requires



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adjudication of facts and therefore, the petitioner ought to be relegated to the Civil Court. Reliance, in this regard, is placed on the decision of the Supreme Court in *Radha Krishnan Industries v. State of Himachal Pradesh and Ors.*,¹ and of a Division Bench of this Court in *Sunil Kumar Pandey and Anr. v. Union of India and Ors.*²

9. Mr. Nanju Ganapathy, learned senior counsel on behalf of the petitioner, opposes the said submission and submits that this Court is fully empowered to exercise its powers where there is non-compliance on the part of respondent no. 1 with the mandatory provisions of the Act. He places reliance on the decision of the Supreme Court in *Veena Singh (Dead) through Legal Representative v. District Registrar/Additional Collector (F/R) and another.*³

10. Further, he submits that the impugned action was in contravention also of Section 34(1) read with Section 23 of the Act, insofar as the Sale Deed has been registered beyond the maximum permissible time of four months from the date of its purported execution.

Analysis.

I. Maintainability of a writ petition against registration of a document.

11. At the outset, the contentions of the parties on the aspect of maintainability of this petition are addressed. For the reasons contained in the following paragraphs, the Court is of the opinion that the petition is maintainable.

12. The Supreme Court, in *Radha Krishnan Industries*, which is relied on by Mr. Kaushik, has nowhere held that the Writ Court cannot entertain

¹ 2021 SCC OnLine SC 334

² 2022:DHC:004582



petitions where the petitioner has an alternative remedy of filing a civil suit.

The Court has summarised the principles of law in this regard, as follows:

“27. The principles of law which emerge are that:

27.1. The power under Article 226 of the Constitution to issue writs can be exercised not only for the enforcement of fundamental rights, but for any other purpose as well;

27.2. The High Court has the discretion not to entertain a writ petition. One of the restrictions placed on the power of the High Court is where an effective alternate remedy is available to the aggrieved person;

27.3. Exceptions to the rule of alternate remedy arise where (a) the writ petition has been filed for the enforcement of a fundamental right protected by Part III of the Constitution; (b) there has been a violation of the principles of natural justice; (c) the order or proceedings are wholly without jurisdiction; or (d) the vires of a legislation is challenged;

27.4. An alternate remedy by itself does not divest the High Court of its powers under Article 226 of the Constitution in an appropriate case though ordinarily, a writ petition should not be entertained when an efficacious alternate remedy is provided by law;

27.5. When a right is created by a statute, which itself prescribes the remedy or procedure for enforcing the right or liability, resort must be had to that particular statutory remedy before invoking the discretionary remedy under Article 226 of the Constitution. This rule of exhaustion of statutory remedies is a rule of policy, convenience and discretion; and

27.6. In cases where there are disputed questions of fact, the High Court may decide to decline jurisdiction in a writ petition. However, if the High Court is objectively of the view that the nature of the controversy requires the exercise of its writ jurisdiction, such a view would not readily be interfered with.”

(Emphasis supplied)

13. It is seen that the Supreme Court has explicitly observed that the existence of an alternate remedy, by itself, would not divest the High Court of its powers under Article 226 of the Constitution of India. It has also held that if the High Court is of the view that the nature of the controversy requires the exercise of its writ jurisdiction, it may entertain the petition.

14. Further, the decision of a Division Bench of this Court, in **Sunil Kumar Pandey** is inapplicable to the present case, considering the facts and

³ (2022) 7 SCC 1



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circumstances. In the said case, the Division Bench was deciding an appeal against the order passed by the Single Judge whereby, the petition was dismissed on the ground that a civil suit for the same reliefs had already been instituted by the petitioners. The Division Bench ultimately upheld the decision of the Single Judge.

15. On the other hand, the decision of the Supreme Court in ***Veena Singh*** would squarely apply to the facts of this case. In the said decision, the Court has held that the mere availability of alternate remedy would not divest the High Court of its jurisdiction under Article 226 where registration of a document has been ordered in breach of the applicable statutory provisions. The Court has also observed that the High Court may exercise its discretion and relegate the parties to the Civil Court where disputed questions of fact arise. The relevant portion of the said decision is extracted below, for reference:

“39. In the event of a refusal by the Registrar, a suit can be filed by a party in terms of the provisions of Section 77 before a civil court, praying for a decree directing the document to be registered. On the other hand, an order of the Registrar directing the registration of a document is amenable to a challenge under Article 226 of the Constitution. While seeking a writ of certiorari, the person moving the petition before the High Court would be entitled to establish whether the registration has been ordered in breach of the statutory provisions and is contrary to law. The mere existence of the remedy available before a civil court, under Section 9CPC to avoid the document or to seek a declaration in regard to its invalidity, will not divest a person, who complains that the order passed by Registrar for the registration of the document was contrary to statutory provisions, of the remedy which is available in the exercise of a Court's writ jurisdiction under Article 226 of the Constitution. Undoubtedly, whether a writ should be entertained lies at the discretion of the Court and in a given case, the High Court may decline to do so on the ground that disputed questions of fact arise. However, it needs to be emphasised that in the exercise of the writ jurisdiction, it would be open to the High Court to determine as to whether the statutory provisions which guide the power of the Sub-Registrar or, as the case may be, the Registrar to order the

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registration of the document have been duly fulfilled.”

16. The Supreme Court has made similar observations in ***Asset Reconstruction Company (India) Limited v. Velayutham and Ors.***⁴ The relevant portion of the decision is extracted below, for reference:

“57. In suits for declaration of title and/or suits for declaration that a registered document is null and void, all the aforesaid three steps which comprise the entire process of execution and registration come under challenge. If a party questions the very execution of a document or the right and title of a person to execute a document and present it for registration, his remedy will only be to go to the civil court. But where a party questions only the failure of the registering authority to perform his statutory duties in the course of the third step, it cannot be said that the jurisdiction of the High Court under Article 226 stands completely ousted. This is for the reason that the writ jurisdiction of the High Court is to ensure that statutory authorities perform their duties within the bounds of law.

58. It must be noted that when a High Court, in exercise of its jurisdiction under Article 226 finds that there was utter failure on the part of the registering authority to stick to the mandate of law, the Court merely cancels the act of registration, but does not declare the very execution of the document to be null and void. A declaration that a document is null and void, is exclusively within the domain of the civil court, but it does not mean that the High Court cannot examine the question whether or not the registering authority performed his statutory duties in the manner prescribed by law.

59. It is well settled that if something is required by law to be done in a particular manner, it shall be done only in that manner and not otherwise. Examining whether the registering authority did something in the manner required by law or otherwise, is certainly within the jurisdiction of the High Court under Article 226. However, it is needless to say that the High Courts may refuse to exercise jurisdiction in cases where the violations of procedure on the part of the registering authority are not gross or the violations do not shock the conscience of the Court. Lack of jurisdiction is completely different from a refusal to exercise jurisdiction”

(Emphasis supplied)

17. A perusal of the position taken by both parties indicates that the dispute herein pertains to the alleged contravention of the statutory mandate



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by the Sub-Registrar. Further, there does not seem to be any disputed question of fact requiring adjudication for deciding this petition.

18. Constitutional Courts cannot keep their eyes shut to cases of apparent infraction of mandatory statutory provisions by public authorities, and compel aggrieved parties to unnecessarily lose time and resources. This petition has been pending since the year 2023 and does not involve any factual dispute. As observed in the following paragraphs, the impugned action is vitiated owing to glaring dereliction of statutory duty. Therefore, the Court does not find any reason to relegate the petitioner to the Civil Court as urged on behalf of respondent no. 6.

19. However, it is pertinent to note that, as observed by the Supreme Court in *Asset Reconstruction Company (India) Limited*, this discretionary power of the writ-Court need not be exercised where the dereliction on the part of the authority is not glaring or does not shock the conscience of the Court.

II. Non-compliance with statutory provisions in the present case.

20. A bare reading of the impugned order indicates that the Sub-Registrar was unable to verify the identity of the vendor prior to registration of the Sale Deed. Identification of the parties to a document is a mandatory requirement for its registration under the scheme of the Act. Section 34 of the Act provides for the procedure to be adopted by the registering officer upon presentation of a document for registration. The relevant portion thereof is extracted below, for reference:

“34. Enquiry before registration by registering officer.—

(3) The registering officer shall thereupon—

(a) enquire whether or not such document was executed by the persons by

⁴ (2022) 8 SCC 210



*whom it purports to have been executed;
(b) satisfy himself as to the identity of the persons appearing before him and alleging that they have executed the document; and
c) in the case of any person appearing as a representative, assign or agent, satisfy himself of the right of such person so to appear.”*

21. The said mandate is also to be found under Section 35(1) and (2) of the Act, which is reproduced below, for reference:

“35. Procedure on admission and denial of execution respectively.—(1)
(a) If all the persons executing the document appear personally before the registering officer and are personally known to him, or if he be otherwise satisfied that they are the person they represent themselves to be, and if they all admit the execution of the document, or
(b) if in the case of any person appearing by a representative, assign or agent, such representative, assign or agent admits the execution, or
(c) if the person executing the document is dead, and his representative or assign appears before the registering officer and admits the execution, the registering officer shall register the document as directed in sections 58 to 61 inclusive.
(2) The registering officer may, in order to satisfy himself that the persons appearing before him are the persons they represent themselves to be, or for any other purpose contemplated by this Act, examine any one present in his office.”

(Emphasis supplied)

22. A perusal of order dated 20.09.2022 passed by respondent no. 1 indicates that on account of failure to verify the identity of the vendor, the Sub-Registrar has refused registration of the Sale Deed *qua* the vendor, and has only permitted registration *qua* the vendee-respondent no. 6. However, there is no provision in the Act for registration of a document *qua* the other parties to it, when the identity of one of the parties has not been ascertained.

III. Whether the Sale Deed was registered beyond the permissible time?

23. The submission on behalf of the petitioner in this regard is founded on the provisions under Sections 34(1) and 23 of the Act, which are extracted below, for reference:



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“23. Time for presenting documents.—Subject to the provisions contained in sections 24, 25 and 26, no document other than a will shall be accepted for registration unless presented for that purpose to the proper officer within four months from the date of its execution:

Provided that a copy of a decree or order may be presented within four months from the day on which the decree or order was made, or, where it is appealable, within four months from the day on which it becomes final.

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34. Enquiry before registration by registering officer.—(1) Subject to the provisions contained in this Part and in sections 41, 43, 45, 69, 75, 77, 88 and 89, no document shall be registered under this Act, unless the persons executing such document, or their representatives, assigns or agents authorised as aforesaid, appear before the registering officer within the time allowed for presentation under sections 23, 24, 25 and 26:”

24. It is seen that the said provisions do not prohibit registration of documents beyond four months from the date of their execution. The time limit set thereunder is for presentation of documents, insofar as they must be presented for registration within four months from the date of their execution. The date of execution of the Sale Deed is unclear. It is seen that the said date is not specified even in the document.

25. On the other hand, under Section 72(2) of the Act, in case of appeals against refusal orders of the Sub-Registrar, if the Registrar directs registration of the document, the same ought to be presented for registration within thirty days from the date of the appellate order. Section 72(2) of the Act is extracted below, for reference:

“72. Appeal to Registrar from orders of Sub-Registrar refusing registration on ground other than denial of execution.—

(2) If the order of the Registrar directs the document to be registered and the document is duly presented for registration within thirty days after the making of such order, the Sub-Registrar shall obey the same, and thereupon shall, so far as may be practicable, follow the procedure prescribed in sections 58, 59 and 60; and such registration shall take effect as if the document had been registered when it was first duly presented for registration.”

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26. In the present case, subsequent to the refusal order of respondent no. 1 dated 31.08.2018, the concerned Registrar has directed reconsideration of the matter *vide* order dated 19.07.2021. Pursuant to the order of the Registrar, the Sale Deed was presented again for registration on 09.08.2021, within thirty days from the date of the order passed by the concerned Registrar. Therefore, the submission on behalf of the petitioner that the Sale Deed was registered beyond the permissible time period under the Act cannot be accepted.

Conclusion.

27. The Court finds that in the instant case, there is a contravention of statutory provisions on the part of the Sub-Registrar who has failed to discharge the mandatory requirement of due diligence. Hence, the impugned order of registration of the Sale Deed stands set aside.

28. The parties, however, shall be at liberty to present themselves before the concerned Sub-Registrar or through their authorised representatives for registration of the Sale Deed, strictly in accordance with the provisions of the Act.

29. It is clarified that the Court has not rendered any finding on the aspect of execution of the Sale Deed or on the question of title over the property in question. The Court has only dealt with the aspect of the due diligence which is required as per the provisions of the Act.

30. Petition stands disposed of.

PURUSHAINDRA KUMAR KAURAV, J

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