



\$~1

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

+ **RSA 32/2021**

KARIMUDDIN

..... Appellant

Through: Mr. Vijay Kinger, Mr. Ashwani Gehlot, Ms. Roopa Nagpal, Mr. Sanjay Varma and Mr. Sidhanth Khokhar, Advocates alongwith Petitioner in person

versus

CHUNNU KHAN

..... Respondent

Through: Mr. Om Prakash and Mr. Durgesh Gupta, Advocates

CORAM:

HON'BLE MS. JUSTICE MANMEET PRITAM SINGH ARORA

ORDER

% **07.05.2024**

CM APPL. 50377/2023

1. This application has been filed by the Appellant seeking modification of the order dated 06th September, 2023 and consequently, exemption from filing the coloured copies of the original title documents pertaining to the property bearing no. K-433, Gali No. 4, Gautam Vihar, Delhi ('subject property').
2. Learned counsel for the applicant-Appellant states that in pursuance of a false complaint filed by the Respondent against the Appellant and his wife, Ms. Sanno, an F.I.R No. 837/2021 has been registered. He states that both Appellant and Ms. Sanno were arrested by police officials in pursuance to the said F.I.R. He states that during the remand, police officials have



seized the original documents of the subject property from the residence of the Appellant. He states thus, the custody of the documents is with the Investigating Officer ('IO') of the said F.I.R. He states that the Appellant has applied to the SHO, P.S. New Usmanpur, Delhi for providing coloured copy of the said documents and also filed an application before the learned MM, District North East, Karkardooma Courts ('MM'), for issuance of appropriate directions to the concerned IO. He fairly states that there is no seizure memo available with the Appellant or Ms. Sanno with respect to the seizure of the original title documents.

2.1. He states that during the pendency of this application the IO has filed a report dated 26th September, 2023, before the learned MM denying that any original documents were recovered from the Appellant or his wife during the remand.

2.2. He states that copy of the title documents, in the custody of the Appellant, were not filed by Appellant before the Trial Court or the first Appellate Court. He states that however, the Appellant has categorically stated that he has custody of the title documents in the written statement as well as reply to the application under Order XII Rule 6 Code of Civil Procedure, 1908.

3. In view of the stand taken by the Appellant, the IO was directed to appear and apprise the Court with respect to the custody of the original title documents. The SHO filed a status report dated 05th April, 2024 stating that no original documents were recovered, either from the Appellant or Ms. Sanno. It is stated in the report that the controversy in the F.I.R. pertains to submission of notarized copies of title documents by Appellant to BSES Yamuna Power Ltd. ('BSES') for obtaining an electric connection in the



name of Ms. Sanno in the subject property. The said copies of the title documents are purportedly executed by Mr. Baldev Raj in favour of the Appellant i.e., Karimuddin. It is stated that upon investigation the said documents have been found to be forged and a chargesheet has been filed.

4. In reply, learned counsel for the Respondent states that the subject property was co-owned by Mr. Baldev Raj and Ms. Kailash Wati. He states that Mr. Baldev Raj transferred his share in the subject property by executing a registered GPA dated 19th June 1998, registered Will dated 19th June, 1998, unregistered ATS, Receipt and Affidavit in favour of the Respondent. He states that the custody of the said registered GPA and the registered Will is with the Respondent. He states that the existence of the said documents has been verified by the police during investigation in F.I.R No. 837/2021 from the concerned Sub-Registrar at Seelampur. He states that the unregistered ATS, Receipt and Affidavit have been lost and an NCR¹ was registered on 19th September, 2018.

4.1. He states that similarly, Mrs. Kailash Wati transferred her share in the subject property in favour of the Respondent, by executing a registered GPA dated 19th June 1998, registered Will dated 19th June, 1998, unregistered ATS, Receipt and Affidavit in favour of the Respondent. He states that the original of these documents are in the custody of the Respondent.

4.2. He states that copies of all the original documents, which are in custody of the Respondent, were filed before the Trial Court with the plaint and in this regard, he relies upon the index² filed and placed on record.

4.3. He states that the forged notarized title documents submitted by the

¹ Non cognizable Report

² Pdf Page 178 of the paperbook



Appellant to BSES falsify his stand in the present appeal. He states that in the present appeal, the Appellant admits that title documents were executed by the seller Mr. Baldev Raj in favour of the Respondent i.e., Chunnu Khan and in the forged documents submitted to BSES, it is depicted that Baldev Raj sold the subject property to the Appellant.

5. This Court has heard the learned counsel for the parties and perused the record.

6. In view of the status report dated 05th April, 2024, filed by the SHO and the reply dated 11th January, 2024 filed by the Respondent to this application, it is evident that the Appellant herein does not have the custody of the original title documents of the subject property.

7. The Respondent has asserted that he has custody of the original documents, referred to at paragraph 4 and 4.1 above, executed by Mr. Baldev Raj and Mrs. Kailash Wati, except the ATS, Receipt and Affidavit executed by Mr. Baldev Raj. The Appellant has not contested the said factual position.

8. The contention of the Appellant that title documents were recovered by the IO in F.I.R. No. 837/2021 is not borne out from the record. The Appellant has failed to enlist the original documents which were purportedly recovered from him by the IO. Further, the controversy in the F.I.R is with respect to the originals of the notarized copies submitted by Appellant to BSES. The documents submitted to BSES, which are subject matter of F.I.R., admittedly do not pertain to the Respondent i.e., Chunnu Khan. This Court is therefore, of the opinion that reference to the F.I.R and the investigation therein is a red herring.

9. Accordingly, the present application seeking modification of the order



is without any merits and is hereby dismissed. The effect of the dismissal is that the assertion made by the Appellant at the hearing dated 06th September, 2023 that he has custody of the title documents executed by the Seller in favour of the Respondent is proven to be incorrect.

RSA 32/2021 & CM APPL. 27093/2024

10. List the matter for hearing before the roster Bench on 28th May, 2024.

MANMEET PRITAM SINGH ARORA, J

May 7, 2024/hp