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

+ **CONT.CAS(C) 1052/2022**

MS DURGA SARVESHVAR KAINTHOLA Petitioner

Through: **Ms. Radhika Arora, Adv.**

versus

DR MAHESH CHANDRA GOKLANEY Respondent

Through: **Mr. Tejas Bhardwaj & Ms. Akshita Singh, Advs.**

CORAM:

HON'BLE MS. JUSTICE MINI PUSHKARNA

ORDER

% **10.01.2024**

1. The main controversy in the present petition is as to whether the terms of the settlement agreement that related to the transfer of immovable property i.e. House No. J-212, 3rd floor, Saket, New Delhi-110017 with roof rights in favour of the petitioner herein by the respondent, can be subject matter of the present contempt petition.
2. Learned counsel for the petitioner relies upon the settlement agreement between the parties dated 21st February, 2019 and submits that the settlement agreement clearly states that the parties in mediation have resolved all their disputes. As per the settlement agreement, the parties agreed to sell the painting in possession of M/s Christie Auction House, New York and share the proceeds thereto.
3. The settlement agreement further recorded that besides sharing the



proceeds, the respondent had agreed to transfer the aforesaid property with roof rights to the petitioner within seven working days from the conclusion of the sale of the said painting.

4. However, it is the case of the petitioner that since the respondent has transferred the aforesaid property to a third party, i.e. Ms. Priya Rani, the present contempt petition has been filed for the purposes of ensuring compliance of the settlement agreement between the parties.

5. On the other hand, the case on behalf of the respondent is that the suit for declaration had been filed by the respondent against the petitioner for lawful ownership of only the art work of V.S. Gaitonde, and that the order dated 18th July, 2019 passed by this court in CS(OS) No.599/2018 pertained to only the art work of the said artist.

6. She refers to the relevant portions of the order dated 18th July, 2019, which read as under:

“7. In the Settlement Agreement and the Memorandum of Understanding(MoU) dated 6th February, 2019 appended thereto, it was agreed between the parties (i) that the subject art work in the custody of Christie's Auction House, New York USA since the year 2011, will be disposed of under the signatures of the parties and the sale proceeds will be divided as per the terms and conditions recorded therein; (ii) that the sale proceeds would be shared equally by the parties; and, (iii) that the parties will file a joint application in this suit for passing of a decree in terms of the Settlement Agreement.

8. I may mention that though the Settlement Agreement and the MoU appended thereto also deal with other disputes/litigations pending between the parties but this suit is not concerned therewith and the Settlement Agreement, only insofar as with respect to the dispute subject matter of the present suit, is to be considered.



9. Once a Settlement Agreement has been signed before the Mediation Cell of this Court, there is no need to await the application under Order XXIII Rule 3. of the CPC.

10. If any of the terms of the Settlement Agreement, insofar as this suit is concerned, has not been performed, the remedy therefore is not to keep this suit pending, but to seek execution.

11. A decree is accordingly passed in this suit, in terms of Settlement Agreement dated 21st February, 2019 and MoU dated 06th February, 2019 appended thereto insofar as concerning dispute Subject matter of this suit, and which shall form part of the decree sheet, leaving the parties to bear their own costs.”

7. By reference to the aforesaid order, it is submitted that the order dated 18th July, 2019 pertained only to the dispute which was the subject matter of the suit viz. the art work of V.S. Gaitonde, which was in the possession of M/s Christie Auction House, New York at the relevant time. Thus, it is submitted that the dispute between the parties with respect to transfer of the immovable property in question, i.e. House No. J-212, 3rd floor, Saket, New Delhi-110017 cannot be the subject matter of the present contempt petition.

8. Accordingly, both the parties are directed to file their written submissions along with the judgments they wish to rely upon before the next date of hearing.

9. List on 30th April, 2024.

MINI PUSHKARNA, J

JANUARY 10, 2024/kr