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

+ **W.P.(C) 15281/2022**

SURJIT SINGH

..... Petitioner

Through: Mr. PBA Srinivasan, Mr. Parth
Tandon, Mr. Sunil Kumar, Ms.
Srishti Bansal, Advs.

versus

**REGISTRAR OFFICER NATIONAL CAPITAL TERRITORY
NCT OF DELHI AND ORS**

..... Respondents

Through: Mr. Udit Malik, Adv. for
GNCTD

CORAM:

HON'BLE MR. JUSTICE YASHWANT VARMA

ORDER

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04.11.2022

CM APPL. 47407/2022 (exemption)

Allowed, subject to all just exceptions.

Application shall stand disposed of.

W.P.(C) 15281/2022

The instant writ petition raises the issue of whether the Sub-Registrar had duly and lawfully discharged his statutory duties under the Registration Act, 1908.

Learned counsel appearing for the petitioners has drawn the attention of the Court to the judgment rendered recently by the Supreme Court in **Asset Reconstruction Co. (India) Ltd. v.s. S.P. Velayutham**, [(2022) 8 SCC 210] where the following observations were made:

“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.”

The challenge to the act of registration is raised on the ground that the father of the petitioner has been a patient of dementia for the past thirteen years and thus he was clearly in no position to have appeared before the Sub-Registrar and having knowingly executed the instruments in question.

In view of the issues that stand raised, let learned counsel appearing for the Sub-Registrar obtain instructions and address submissions.

List again on 21.03.2023.

YASHWANT VARMA, J.

NOVEMBER 4, 2022

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