

IN THE HIGH COURT OF DELHI AT NEW DELHI

W.P. (C) 18676/2006

ABHAY KUSHWAHA

Through: Petitioner in person.

..... Petitioner

versus

STATE & ORS.

Through: Ms. Zubeda Begum, Advocate.

..... Respondents

CORAM:

HON'BLE MR. JUSTICE S. RAVINDRA BHAT

ORDER
16.04.2009

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High Court of Delhi

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The petitioner seeks the following directions: -

- direct the Respondents to ensure that the provision of Rule 14 of the Delhi Registration Rules 1976 is followed scrupulously in letter and spirit prospectively and retrospectively,
- direct the Respondents to issue the search certificate/non-encumbrance certificate henceforth."

It is contended that the land records pertaining to the properties in Delhi are being retained in a dis-organized and hazardous manner by the respondents and particularly the office of the Sub-Registrar. The petitioner, therefore, has approached the Court for suitable directions to ensure compliance with the various provisions of law.

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The respondent - Govt. of NCT of Delhi in its original reply affidavit submitted that a large number of documents are received for registration each day and that according to the revenue, legal regime, several types of documents and registers are to be maintained. The respondents have outlined different steps involved in the registration of documents and the maintenance of records. As regards the question of issuing 'No Encumbrances Certificate' which is one of the grievances articulated by the petitioner, respondents contend that such duty has not been caste upon it.

During the course of proceedings, the Court had recorded the presence of the representatives of the respondents, who had stated that steps were taken to digitize the records in the Sub-Registrar Office for the purpose of easy access and also facilitating various classes of registration of documents. By a compliance affidavit dated 29.7.2008, the respondents have stated as follows: -

"2. - That Provisions already exist under section 55 of the Registration Act, 1908 read with Rule 14 and 22 of the Delhi Registration Rules, 1976 for preparation of index registers. As per above provisions, Index No.1 shall contain the names and additions of all persons executing and of all persons claiming under every document entered or memorandum filed in Book No.1. Index No.1 shall contain the following headings: - Name of the person, Fathers name, Residence, profession, trade, caste, Interest in the transaction e.g. purchaser, mortgagee, etc., No. of volume in which document is registered, pages of volume in which document is registered, Reference (i.e. to initial letters of other indices relating to the same transaction). Maintenance of record within above provisions has been reiterated to all Registrars/Sub-Registrars vide order No.405 dated 24.7.2008.

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3. That the Delhi Stamps (Prevention of Under Valuation of Instruments) Rules, 2007 was notified on 18.7.2007. Form A has been prescribed under Rule 5 of aforesaid rules which is required to be filled up by the seller and purchaser of the property under sale. There is another form on the website of NIC i.e. E-Dastavej (Delhi Online Registration Information System) Form for circle rate, in which in column 9 there is a questionnaire - whether property was transferred earlier or not. These provisions help in tracing previous transaction of the properties.

4. That pursuance to the directions of the Hon'ble Court a letter was issued on 29.5.2008 by ADM (HQ) to the National Information Centre (NIC) for developing a software in compliance of the order dated 11.12.2007.

5. That vide letter No.404 dated 24.7.2008 State Information Officer of National Informatic Centre (NIC) has also been requested to develop a software in which details of property registered in Book No.1 Sub-Registrar wise could be entered along with chain of all the back references available in the instrument bearing the details of the property conveyance to seller i.e. Registration No., Vol. No., pages and date of registration w.e.f. 1.4.2008. It was also suggested that the same can be provided in Form A under Rule 5 of the Delhi Stamps (Prevention of under valuation of instruments) Rules, 2007 already created by NIC at column at column No.9 of E-Dastavej (DORIS) Form - 'property transferred earlier'. Annexed hereto and marked as ANNEXURE-R-1/1 is a copy of the Form giving Delhi online registration information system. Annexed hereto and marked as ANNEXURE-R-1/2 is a copy of the Form-A."

The GNCTD also relies upon a general Circulars dated 24.7.2008, to order Deputy Commissioner and Sub-Registrars directing strict compliance with provisions of Section 55 of the Registration Act, 1908 read with Rule 22 of The Delhi Registration Rules, 1976 for preparing index registers. They also rely upon the correspondence with the National Informatics Centre (NIC) requesting for provisioning of cross

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ences in respect of documents registered and available in the records of the Sub-Registrar, for easy access of those who desire to scrutinize them for the purpose of asserting valid title and encumbrances.

In view of the steps taken by the respondents to digitize the records, which the petitioner does not dispute and the further attempts to improve the entire mechanism, the Court is of the opinion that the original purpose for which this writ proceeding was filed does not subsist. The respondents, however, shall ensure that the records are digitized and placed in the public domain, or made available in appropriate electronic manner (if necessary, Compact Discs) shall be conveniently cross indexed and referenced for the purpose of facilitating the scrutiny and encumbrances and title.

The Writ Petition is disposed of in the above terms.

APRIL 16, 2009
/vd/

S. RAVINDRA BHAT, J

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Indian Evidence Act.

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