



OFFICE OF THE SUB DIVISIONAL MAGISTRATE (KAPASHERA)
GOVT. OF NCT OF DELHI

OLD TERMINAL TAX BUILDING, KAPASHERA, NEW DELHI-110037

No. F./SDM/KPH/Court Case/2019/ 12367

Dated: 22/02/2019 / 26/2/2019

Case ID:- 20470

Case No. 49/103/2018

U/s:- 23 of DLR Act, 1954

In the matter of:

Smt. Ritu Gupta

.....Petitioner

Vs

Sh. Ajay Kumar

.....Respondent

ORDER

By this order I shall dispose off the present Case filed by the petitioner U/s 23 of DLR Act, 1957, wherein petitioner has sought the mutation of the purchased land i.e. 1/6th share in Khasra No. 22//7/2 (3-9), 8/2 (3-9), 27//16/2 (2-0), 25/1 (1-12), 14/2 (1-0), 15 (4-12), 16/1 (2-16) Situated in village PandwalaKalan, New Delhi and dismissed the objection filed against mutation by respondent.

Contention of the Petitioner:-

That the petitioner had purchased 1/6th share of land bearing Khasra Nos. 22//7/2 (3-9), 8/2 (3-9), 27//16/2 (2-0), 25/1 (1-12), 14/2 (1-0), 15 (4-12), 16/1 (2-16) situated in village PandwalaKalan, Tehsil-Kapashera, New Delhi by virtue of sale deed dated 09/04/2018 registered before Sub-Registrar-IX, as Document No. 3391 in Additional Book No. 1, Volume No. 9494 on pages 67 to 74.

The said land has been purchased from respondent no. 1. The affidavit of no-objection of the vender is also filed in support of mutation application.

Contention of the Respondent No. 1/Seller: -

That the seller/respondent no. 1 has submitted that he has not executed any such agreement in favour of respondent no. 2/objector for sale of the suit land. He further submitted that he has no objection in the instant matter and mutation may be done in favour of purchaser/petitioner.

Contention of the Respondent No. 2/Objector: -

That the objector/respondent no. 2 herein filed an objection to the mutation of the suit land by representing that the vender of the sale deed of suit land had executed an agreement to sell in favour of objector for sale of the suit land. However, seller/respondent No. 1 denied that he has not executed any such type of agreement.

Nitin Jindal
26/2/19

Observations:-

1. **Expressed sale deed:-**The sale deed dated 09/04/2018 is expressed in terms and creates clear title w.r.t. suit land in favour of petitioner herein.
2. **Dismissal of application U/o 39 Rule 1 & 2:-** That the objector/respondent filed a civil suit vide no. 753/18 which is sub-judice in the Ld. Court of Dr. Jagminder Singh. In that suit Ld. ASCJ vide order dated 09/07/2018 dismissed the application for injunction U/o Rule 1 & 2 by giving a reasoned/speaking order. The relevant para of the order dated 09/07/2018 passed by Ld. Civil Court is reproduced as under:-

"Admittedly the plaintiff is neither in possession nor having any ownership right in the suit property till date. Plaintiff had not filed the suit for specific performance of the contract, if any and filed the present suit only for injunction. On the other hand, defendant no. 1/seller had denied the fact of execution of any alleged agreement to sell or of taking any amount from the plaintiff. Moreover, during arguments Ld. Counsel for defendant no. 1 stated that on 26.03.2018, the defendant no. 1 had already sold the suit property and this fact is not denying on behalf of plaintiff."

3. Revenue authority has no power to enforce the parties for specific performance of contract.
4. That as per the standard rules and practise, the objection has to be heard from a party who establish his locus standi with respect to suit land. However, in the present matter the objector/respondent no. 2 failed to establish his locus standi on the suit land. Secondly, instead of contesting appeal against the order dated 09/07/2018 and filing suit for cancellation of sale deed or recovery suit for his money from respondent no. 1, he is contesting in wrong forum for the improper relief without locus standi.
5. In CWP No. 10048 of 2018 titled Bahadur Singh Vs Financial Commissioner, Punjab & Ors. the Hon'ble High Court of Punjab And Haryana stated that
"It is settled principle of law that mutation proceedings cannot be kept in abeyance even during the pendency of the dispute before the Civil Court and as such, the revenue officers are duty bound in terms of statute to enter mutations in exercise of their administrative functions."

In view of the aforesaid facts & circumstances the objection application of the objector/respondent No. 2 is dismissed. No order as to cost.

File may be consigned to the record room.

Nitin Jindal
(NITIN JINDAL) 24/4/19
RA/SDM, KAPASHERA

Copy to:

1. Tehsildar (Kapashera), with the direction to update revenue records accordingly.
2. System Analyst, Distt. South-West, with the direction to upload the order on the department's website.
3. All of the concerned Parties.