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Annexure-2

S-22

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IN THE HIGH COURT OF DELHI AT NEW DELHI

CRL.REV.P. 534/2018

BALMIKI PRASAD SINGH & ANR

.....Petitioners

Through: Mr. Barun Kumar Sinha, Mrs.
Pratibha Sinha and Mr. Sneha
Vardhan, Advocates.

versus

NCT OF DELHI & ORS

.....Respondents

Through: Ms. Richa Dhawan, APP for the
State.
Insp. Lalit Kumar, P.S. DIU/East.
Mr. Yatendra Sharma and Mr. Prateek
Sharma, Advocates for R-2, 3 & 4.

CORAM:

HON'BLE MS. JUSTICE MANMEET PRITAM SINGH ARORA

ORDER

19.02.2025

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1. The present petition has been filed under Section 397 read with Section 482 of Criminal Procedure Code ('Cr.P.C.'), seeking following relief:

"(i) To set aside the impugned order dated 18.05.2018 passed by Ld. SDM, Mayur Vihar in Case No. SDM(MV)/Cr.PC.145/P-3/2017 titled as "State Vs Party No.1, Sh. Subodh Kant Sahay & Ors and Party No.2, Sh. Balmiki Prasad Singh & Ors.

(ii) To direct the Ld. SDM, Mayur Vihar to handover the possession of land of All India Panchayat Parishad, Panchayat Dham situated in Khewat No.8/29, Khasra No.368, Village Gharonda Neem Ka Banger, near Patparganj, Mayur Vihar, Phase-1, Delhi, along with building and other structure to the petitioners."

(Emphasis Supplied)

2. Learned counsel for the Petitioner has placed reliance upon the order dated 25.04.2017 passed by the learned sub-Divisional Magistrate (SDM) and the subsequent order dated 03.10.2017 passed by the learned Special

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(Emphasis Supplied)

2.2 He states that the learned SDM had opined that the restoration of possession of the property belonging to All India Panchayat Parishad (AIPP) in favour of Respondent No. 2 is an interim measure and the learned SDM was influenced by the fact that Respondent No. 2 had challenged the election dated 19.12.2013 (whereby the Petitioner was elected as the President of the AIPP) before a Civil Court. He states that the learned SDM had elected to await the outcome of the said civil proceedings wherein the election was challenged.

2.3 He states subsequently that the Petitioner herein has also succeeded in the civil suit re-numbered as Civil Suit No. 765/2017 against Respondent no. 2 and the Civil Court has dismissed the said suit and opined as under:

“15. Further, the plaintiff has sought to declare the election dated 21.12.2013 as valid without seeking declaration regarding the election which took place on 19.12.2013. The plaintiff has himself filed an order dated 19.12.2013 passed by Sh. Subodh Kant Sahay, the alleged president of ABPP wherein the election dated 19.12.2013 was declared null and void and suspended the membership of the participating candidates and therefore, appropriate remedy would be to seek declaration of the previous election as null and void without which the subsequent election cannot be held as valid.”

17. In view of the observations made above, I am of the view that suit of the plaintiff is clearly barred by law. Accordingly, the application filed by the defendant under Order 7 Rule 11 is allowed. The suit of the plaintiff is rejected.”

(Emphasis supplied)

2.4 He states that this judgment of the Civil Court has attained finality as Respondent No. 2 has elected not to challenge the said judgment.

2.5 He states that having succeeded before the Civil Court; the Petitioner filed an application before the learned SDM for restoration of the possession



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right to possess the land in his/her personal capacity.

6. Since on 18.05.2018, while passing the impugned order, the learned SDM was influenced by the fact that the election of Petitioner is in dispute, the subsequent judgment of the Civil Court dated 05.09.2019 declining to give a declaration in favour of Respondent no. 2 that election held on 21.12.2023 was valid is a material development.

7. Considering the limited relief sought by the Petitioner as recorded at paragraph 2.6, the present petition is disposed of directing the learned SDM to decide the pending application of the Petitioner qua restoration/handing over of the possession of the subject land in accordance with law. The learned SDM while deciding the application shall duly bear in mind the judgment of the Civil Court dated 05.09.2019 passed in Civil Suit No. 765/2017 vis-à-vis the election of Respondent no. 2.

8. Keeping in view, the application/issue has been pending for a long time, learned SDM is requested to hear and decide the matter expeditiously as per its own calendar.

9. With the aforesaid directions, the petition is disposed of along with pending applications (if any).

10. The digitally signed copy of this order, duly uploaded on the official website of the Delhi High Court, www.delhihighcourt.nic.in, shall be treated as a certified copy of the order for the purpose of ensuring compliance. No physical copy of order shall be insisted by any authority/entity or litigant.

MANMEET PRITAM SINGH ARORA, J

FEBRUARY 19, 2025/MR/sk

[Click here to check corrigendum, if any](#)