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

% ***Date of decision: 26th September, 2025***

+ CRL.M.C. 6226/2023 & CRL.M.A. 23284/2023 (stay)

NAZAKAT ALI

.....Petitioner

Through: Mr. Mohd. Shamikh, Mr. A. Ahmad,
Advocates.

versus

STATE DELHI & ANR.

.....Respondents

Through: Mr. Sanjeev Sabharwal, APP for the
State with IO in person.

CORAM:

HON'BLE MR. JUSTICE ARUN MONGA

ARUN MONGA, J. (ORAL)

1. Assailed herein, inter alia, is an order dated 07.11.2022 (Annexure P/1) passed by Sub- Divisional Magistrate (Preet Vihar) East District, Delhi in exercise of his jurisdiction under Section 145 of Cr.P.C. and another order dated 06.07.2023 (*Annexure P-2*) passed by learned Additional Sessions Judge, (East) Karkardooma Courts, Delhi upholding the same while dismissing the Criminal Revision of the petitioner.

2. Nazakat Ali, the petitioner and Smt. Desh Kumari, a senior citizen widow, the respondent No.2 have their rival claims regarding possession and ownership of property bearing No. R-104 [R-104A], Ramesh Park, Laxmi Nagar Delhi. A Kalandara vide DD No. 27A dated 05.04.2022 under Section 107/150 Cr.PC was registered by the police of P.S. Laxmi Nagar in this regard that the lock of the property was found broken to grab the property.



Since there was an apprehension of breach of peace in the locality, the IO filed the Kalandara with request to bound down the parties.

3. The dispute herein thus concerns the possession of a property which was the subject matter of proceedings initiated by the petitioner under Section 145 Cr.P.C. vide his complaint dated 26.03.2022.

3.1 Taking cognizance on the complaint, the SDM (Preet Vihar) issued direction to seal the subject property till further orders. Both parties submitted their respective documents to claim their ownership. Considering the documents of both the parties and the statements of the neighbours, the SDM came to a conclusion that the petitioner was never in possession of the subject property whereas Smt. Desh Kumari, the respondent had not only shown ownership of the same from the date of she purchased it from Smt. Saraswati Devi W/o Late Shri Bishan Dass Rajput vide GPA/Sale Agreement dated 23.08.1985 but she was also in lawful possession of the same from 23.08.1985.

3.2 The SDM, therefore, directed that the property be handed over to Smt. Desh Kumari W/o Sh. Deepak Chowhan within 07 days from the date of the impugned order i.e. 07.11.2022.

4. In the aforesaid backdrop, I have heard the rival contentions.

5. Perusal of the case file reveals that the disputed property measures 50 sq. yds., which was purchased by Respondent No. 2 from its owner. Initially, the total plot measured 160 sq. yds., out of which two buyers purchased 55 sq. yds. each, leaving 50 sq. yds. purchased by Respondent No. 2. Respondent No. 2 also received the entire original chain of documents as she was the last purchaser.

6. On the other hand, the documents relied upon by the petitioner show



the property to be 55 sq. yds. instead of 50 sq. yds.. Some of the documents relied upon by him do not even mention the property number, and the sale consideration does not tally with the alleged date of purchase or payment.

7. Moreover, vendor of the petitioner i.e. Ms. Shahreen Ashraf was never in possession of the property at any time, hence there was no question of her handing over possession. The petitioner has also filed a wrong Site Plan, while the correct Site Plan has been placed on record by Respondent No. 2 along with her written synopsis. The petitioner has failed to produce proof of possession such as water bills, property tax receipts, electricity charges, or construction-related documents, whereas Respondent No. 2 produced all relevant documents before the SDM, including purchase documents, ID proof, electricity and water connection proofs, house tax receipts, and documents relating to her children. The SDM verified these documents and also examined several local witnesses before passing the order.

8. The central issue in the case is actual and physical possession of the property. The petitioner relies on a Sale Deed dated 11.04.2022, allegedly executed by Ms. Shahreen Ashraf, who claimed to have purchased the property on 07.05.2003. However, proceedings under Section 145 Cr.P.C. had already commenced on the basis of DD No. 52A dated 30.03.2022, much prior to the alleged Sale Deed. Moreover, from 07.05.2003 until 11.04.2022, no document has been produced by the petitioner to show that Ms. Ashraf was ever in possession of the property.

9. Before proceeding further, it is deemed appropriate that the impugned order passed by the learned Sessions Judge be seen. Perusal of the same reveals that the civil proceedings initiated by the petitioner were filed



only after the commencement of the proceedings under Section 145 Cr.P.C., and not before. Respondent No. 2, on the other hand, placed various documents on record to show her long possession and also furnished minute details of articles lying and fixed in the property, which could not have been described with such precision without long years of residence. The petitioner has failed to prove that Ms. Ashraf was ever in possession, whereas Respondent No. 2 has established her continuous possession before the SDM. It is clarified that ownership and title are matters for the Civil Court to decide, but the SDM rightly concluded that Respondent No. 2 was in possession. Any observation of the SDM regarding ownership or title will not bind the Civil Court.

10. Having perused the order, at the very threshold, I may like to observe here that neither is there any irregularity in facts or law warranting interference of this Court and the petition, therefore, deserves to be dismissed on that short ground alone.

11. However, matter does not rest here. There is more to it. Let us see how.

12. The petition was earlier heard by me on 22.09.2025 when the following order was passed:

“ Prima facie, the conduct of the petitioner does not appear to be on above Board as he has been indulging in various suspicious activities including preparing the property documents in the name of the deceased husband of respondent No.2 thinking it to be in his ownership whereas as it turns out the property is duly registered in the name of respondent No.2, i.e., widow.

In view thereof, the Investigating Officer, present in Court to ensure the presence of the petitioner locating his whereabouts.

List on 26.09.2025.”



13. A Status Report dated 26.09.2025 has been filed by the prosecution in respect to the FIR which had been registered at the instance of the respondent no. 2/complainant Smt. Desh Kumari. Per FIR, the complainant alleged that accused Nazakat Ali, in conspiracy with his associates, forged documents relating to her property (H.No. 104A, Ramesh Park). After the death of her husband, she had shifted with her children to another address. On 28.03.2022, her neighbours informed her that unknown persons were attempting to take possession of the property. She, along with her daughter, rushed to the spot and found Nazakat Ali with others trying to take over possession. When she opposed, he threatened her and demanded ₹50 lakhs to settle the matter.

13.1 During investigation, the complainant provided photocopies of relevant documents, namely the Sale Deed, GPA, Agreement Deed, Aadhaar card of Deepak Chauhan, his Pension Identity Card, property tax receipts, voter ID, death certificate, PPO, BSES bill, SDM's order dated 07.11.2022, and the order dated 06.07.2023. The death certificate of Deepak Chauhan was verified from the Sub-Registrar, MCD Shahdara South Zone. A reply from the Sub-Registrar VIII-A, DM Office, District East, was received. A reply from the Delhi Jal Board, East District, in relation to K.N. 8547410000, showed the connection in the name of Smt. Desh Kumari with status "CUT."

13.2 On 05.09.2024, BSES, Radhu Nagar, Laxmi Nagar, Delhi, provided a reply regarding C.A. No. 100950279 & 122045263. The connection under C.A. No. 100950279 was in the name of Late Deepak Chaudhary but was disconnected on 24.05.1998, and no records could be traced. No record was available in respect of C.A. No. 122045263, though bills were in the name



of Shahreen Ashraf.

13.3 A notice under Section 91 Cr.P.C. was issued to the Sub-Registrar V, Mehrauli, for the original chain of property, but the office replied that they had no record. A certified copy of the Sale Deed from the office of Sub-Registrar VIII-A, Preet Vihar, Delhi, executed between Shahreen Ashraf and Nazakat Ali, showed witnesses Aamir and Gaurav; accordingly, a notice under Section 179 BNSS was served upon them.

13.4 Furthermore, CDRs of mobile numbers of the petitioners were obtained for the period 01.01.2025. One number i.e. 8929839641 was found de-active, while 9871733091 remained switched off for the entire period.

13.5 A reply from the Archive Department revealed that the last registered chain of property in year 1981 was between Balbir Singh and Shanta Kumari.

13.6 The complainant also filed a Civil Suit No. 1389/2022 for damages and permanent and mandatory injunction.

13.7 The chain of property documents supplied by Nazakat Ali is under verification, and investigation of the case is still continuing.

14. In light of the aforesaid report, in fact, I have also heard arguments on the chain of the documents relied upon by the petitioner *Vis-a-Vis* the chain pursuant to which the Respondent no. 2 is stated to be current owner of the property in question as well as having possession thereof. The said controversy since goes to the root of matter.

15. From both the rival property chains, *ibid*, a comparative table is culled out (from the status report) as below:



| Petitioner (Nazakat Ali) Chain of Property | | | |
|---|-----------------------------------|-----------------------------------|----------------------|
| Date | From | To | Amount/Consideration |
| 01.08.1980 | Ravidev Singh | Kailash Devi | Rs. 8,000/- |
| 16.04.1986 | Kailash Devi | Ramveer Singh | Rs. 20,000/- |
| 30.01.1990 | Ramveer Singh | Deepak Chauhan S/o Manish Chauhan | Rs. 22,000/- |
| 10.03.1998 | Deepak Chauhan S/o Manish Chauhan | Pritam Singh | Rs. 1,00,000/- |
| 07.03.2003 | Pritam Singh | Shahreen Ashraf | Rs 1,25,000/- |
| 11.04.2022 | Shahreen Ashraf | Nazakat Ali (Petitioner) | Rs. 23,90,000/- |

| Date | From | To | Amount/Consideration |
|------------|----------------|----------------|---|
| 1971 | Roshan Lal | Kailash Devi | Rs. 1000/- (As per Sale deed dated 31.03.1971) |
| 1981 | Balbair Singh | Shanta Devi | NA |
| 1983 | Shanta Devi | Desh Kumari | Rs. 14,000/- |
| 07.01.1985 | Desh Kumari | Saraswati Devi | Rs. 16,000/- |
| 13.08.1985 | Saraswati Devi | Desh Kumari | Rs. 20,000/- |

16. As regards the chain which has been relied upon by the petitioner, it turns out that there is no proof of remittance of the payment of consideration, except the last document dated 11.04.2022, where it is claimed that the total consideration was Rs. 23 lakhs out of which Rs. 22



lakhs have been paid through Bank channel.

17. Prior thereto, not only the documents seem to be all fictitious but even the persons who have executed are not traceable, as informed by the I.O. in the course of the hearing.

18. *Prima facie*, therefore, it appears that not only forgery has been committed but even fictitious persons have been used without there being any identity proof of their existence. Non-existent persons claim to have sold from one hand to the other to create a chain and given impression that the last of the owners i.e. the petitioner Nazakat Ali had done his due diligence before purchasing the same. Due diligence is nothing but *prima facie*, appears to be a fraud committed on the Respondent no. 2.

19. However, I shall refrain to make any further observations qua the same at this stage, as matter is already under investigation by the IO and the law will take its own course.

20. Reverting to the *lis* in hand, Section 145 Cr.P.C. empowers the Executive Magistrate to intervene in cases of disputes likely to cause breach of peace concerning land or property, and the Magistrate's role is confined to determining who was in actual possession on the date of the dispute, not questions of ownership or title. The SDM, therefore, acted correctly in the present case by limiting the inquiry to possession rather than ownership.

21. Respondent No. 2 produced documentary evidence including purchase documents, electricity and water connections, house tax receipts, and identification proofs, all pointing to her long and continuous possession, which was also corroborated by local witnesses. The petitioner, on the other hand, failed to produce any credible proof of possession such as utility bills, tax receipts, or construction records, and merely relied on a belated Sale



Deed. Any property document without proof of actual possession cannot suffice in proceedings under Section 145 Cr.P.C. The SDM was therefore right in concluding that possession lay with Respondent No. 2.

22. It is also significant that the DD entry on the basis of which the Section 145 proceedings were initiated is dated 30.03.2022, whereas the petitioner's alleged Sale Deed is dated 11.04.2022. Possession has to be judged as it existed on the date of initiation of proceedings, and any subsequent transaction cannot defeat the process once set in motion. Accordingly, the Deed relied upon by the petitioner was irrelevant for determining possession in proceedings before the SDM.

23. The SDM further clarified, and rightly so, that ownership and title are matters exclusively for the Civil Court to decide. An order under Section 145 does not confer title but only protects possession to prevent breach of peace. Thus, the SDM's order is legally sound in limiting itself to possession and not encroaching upon civil jurisdiction.

24. Finally, the very object of Section 145 is to prevent breach of peace by protecting actual possession. Thus, to disturb the possession of Respondent No. 2, who has shown continuous occupation supported by documents and witnesses, would run contrary to the preventive spirit of the law.

25. As an upshot, this petition is dismissed with cost of Rs. 50,000/- to be paid to Respondent no. 2 by the petitioner for making her undergo the unnecessary litigation.

ARUN MONGA, J

SEPTEMBER 26, 2025/acm