

# Radox Tradex Private Limited & Ors vs State Of Nct Of Delhi on 29 July, 2021

**Author: Yogesh Khanna**

**Bench: Yogesh Khanna**

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IN THE HIGH COURT OF DELHI AT NEW DELHI

W.P.(CRL) 1312/2021

RADOX TRADEX PRIVATE LIMITED & ORS. .... Petition

Through: Mr.Siddharth Luthra, S

with Mr.Siddhart

Ms.Astha Nigam, Adv

versus

STATE OF NCT OF DELHI

Through: Mr.Rajesh Mahajan, ASC

State.

Mr. Gaurav Puri, Mr

and Ms. Yashika Ver

for Complainant.

CORAM:

HON'BLE MR. JUSTICE YOGESH KHANNA

ORDER

% 29.07.2021

1. The hearing has been conducted through Video Conferencing.
2. Exemption allowed, subject to all just exceptions.
3. The application stands disposed of.

W.P.(CRL) 1312/2021 & CRL.M.A. 11167/2021

4. This petition is filed for quashing of FIR No.91/2021 registered under Sections 406/420/120B IPC at Police Station Economic Offences Wing, Delhi and the proceedings emanating therefrom.

5. The dispute pertains to the sale of land ad-measuring 23.66 acres situated in the revenue estate of village Silokhera, Distt.-Gurugram, Haryana. It is alleged by the learned senior counsel for the petitioners that the petitioners and SS Premium Homes Pvt. Ltd. are the bonafide purchasers and absolute owners of the said land by virtue of a registered sale deed dated 18.12.2020, registered with the Sub-Registrar on 24.12.2020.

6. There exist a contractual dispute between M/s.Splender Landbase Limited-complainant herein and M/s.Aparna Ashram-a registered society and M/s.Shree Damodar Corporation for the alleged

violation of the terms and conditions of a collaboration agreement dated 08.06.2010. As per agreement the complainant was to develop 23.66 acres of land belonging to M/s.Aparna Ashram and thereafter 75% of the land with saleable rights was to go to the complainant and whereas 25% of the land with saleable rights was to come back to M/s.Aparna Ashram. Some disputes arose and it is a case of the petitioners the land was never developed and neither were the terms and conditions of such collaboration agreement were ever adhered to either by M/s.Aparna Ashram or by the complainant herein.

7. It is alleged the petitioners are the bonafide purchaser of the said land and had paid an amount of Rs.55,06,50,000/- to M/s.Aparna Ashram. It is alleged they had validly purchased this piece of land and even filed Board resolutions dated 09.07.2021 of petitioners no.1 and 2 and Board resolution of petitioner no.3 etc. A petition under Section 9 of Arbitration and Conciliation Act, bearing No. OMP(I)(C) 25/2021 and under Section 11 of Arbitration and Conciliation Act, bearing ARB.P.366/2021, are also pending before this Court.

8. Two issues have been raised a) the petitioners are the bonafide purchasers of the land and b) the FIR could not have been lodged at Delhi since the agreement was executed at Gurugram, Haryana; the land is situated at Gurugram and the sale deed was also executed at Gurugram.

9. Reference was made to 2009(8) SCC 751 to say the petitioners being bonafide purchasers were themselves cheated and rather are the aggrieved person. The Court in this case held:

"14. When a sale deed is executed conveying a property claiming ownership thereto, it may be possible for the purchaser under such sale deed, to allege that the vendor has cheated him by making a false representation of ownership and fraudulently induced him to part with the sale consideration. But in this case the complaint is not by the purchaser. On the other hand, the purchaser is made a co-accused. It is not the case of the complainant that any of the accused tried to deceive him either by making a false or misleading representation or by any other action or omission, nor is it his case that they offered him any fraudulent or dishonest inducement to deliver any property or to consent to the retention thereof by any person or to intentionally induce him to do or omit to do anything which he would not do or omit if he were not so deceived. Nor did the complainant allege that the first appellant pretended to be the complainant while executing the sale deeds. Therefore, it cannot be said that the first accused by the act of executing sale deeds in favour of the second accused or the second accused by reason of being the purchaser, or the third, fourth and fifth accused, by reason of being the witness, scribe and stamp vendor in regard to the sale deeds, deceived the complainant in any manner. As the ingredients of cheating as stated in Section 415 are not found, it cannot be said that there was an offence punishable under Sections 417, 418, 419 or 420 of the Code."

10. The petitioner seeks grant of interim stay on investigation since the FIR is registered without any jurisdiction; has referred to A.P.Mahesh Cooperative Urban Bank Shareholders Welfare Association vs. Ramesh Kumar Bung and Others 2021 SCC Online SC 475 wherein the Court held:

"22. As rightly pointed out by the learned senior counsel appearing for Respondents 1 to 3, Neeharika (supra) certainly allowed space for the High Court to pass an interim order of the nature impugned herein, "in exceptional cases with caution and circumspection, giving brief reasons". What is frowned upon in Neeharika (supra) is the tendency of the courts to pass blanket, cryptic, laconic, non-speaking orders reading "no coercive steps shall be adopted". In Paragraph 60 of the Report in Neeharika (supra), this Court recognized that there may be allegations of abuse of process of law, converting a civil dispute into a criminal dispute, with a view to pressurize the accused. In the order impugned in these petitions, the High Court has given elaborate reasons as to how the allegations of bank fraud were developed during the proceedings concerning allegations of election fraud. Therefore, the impugned order cannot be said to be bad in the light of Neeharika principles.

27. Even the decision in N.N. Global Mercantile Pvt. Ltd. (supra) will not go the rescue of the petitioner since the reference in the impugned order to Section 84 of the Multi-state cooperative Societies Act, 2002 is only for the limited purpose of dealing with the allegations relating to admission of members."

11. The learned ASC for the State appears and submits the initial agreement dated 08.06.2010 was executed at Delhi. He referred to Section 181(4) Cr.P.C. to say Delhi Police has validly registered the FIR.

12. It is also submitted the investigation is at a very initial stage and at this stage any stay of proceedings may hamper the investigation. Further the petitioners if are the bonafide purchasers of the subject land; is yet to be determined and hence their joining the investigation is absolutely essential.

13. Issue notice. The learned ASC for the State and learned counsel appearing on behalf of the complainant accepts the notice. Let the replies be filed by them within six weeks from today with an advance copy to the learned counsel for the petitioner. Rejoinder, if any, be filed within two weeks thereafter. All the documents with relevant case laws be placed on record as well. List on 22.11.2021.

14. If during the enquiry the State comes to a conclusion the petitioners are not the genuine/ bonafide purchasers of the subject land, they shall issue three days prior notice to the petitioners herein of their arrest, if any, so that they may have an opportunity to approach the appropriate forum.

YOGESH KHANNA, J.

JULY 29, 2021 DU