**(1995) 05 DEL CK 0026**

**In the Delhi High Court**

**Case No :** C.M. No. 3146 of 1995 in C.W. No. 1773 of 1995

Dr. Ravi Singh and another APPELLANT

Vs

Union of India and others RESPONDENT

**Date of Decision :** 19-05-1995

**Acts Referred:**

**Citation :** (1997) 225 ITR 302 : (1995) 82 TAXMAN 253

**Hon'ble Judges :** Dr. M.K. Sharma, J;D.P Wadhwa, J

**Bench :** Division Bench

**Advocate :** Deokinandan, Adv S.N. Marwaha and A.K. Marwaha, for the Appellant;

## Judgement

D.P. Wadhwa, J.—The petitioner in this petition under article 226 of the Constitution of India has claimed the following prayers :

(a) That this hon''ble court be pleased to declare that respondents Nos. 1 to 3 have no jurisdiction to process Form No. 37-I submitted by respondent No. 4 behind the back of the petitioners on February 22, 1995, when the petitioners had not entered into any such agreement as alleged, ante-dated and attached with Form No. 37-I, nor was the same signed in confirmation of what was mentioned therein as Form No. 37-I was got signed in blank.

(b) That this hon''ble court be pleased to issue an appropriate writ in the nature of prohibition restraining respondents Nos. 1 to 3, their servants and agents from in any way taking further steps or proceedings with a view to issue a no objection certificate.

(c) That this hon''ble court be pleased to issue an appropriate writ, direction or order including a writ in the nature of mandamus calling for the records of the case starting with Form No. 37-I and quash and set aside if any order/decision has been made or taken thereon to issue a no-objection certificate by respondents Nos. 1 to 3.

 

(d) To direct respondents Nos. 1 to 3 by issue of a writ of mandamus or an appropriate writ, order or direction not to issue any No objection certificate for the purpose of section 269UC(2) of the Income Tax Act, 1961.

(e) That if any no-objection certificate has been decided to issue or has been issued the same be quashed.

(f) Such other and further relief be granted as the hon''ble court deems fit and proper in the interest of justice. Cost be also awarded to the petitioners against the respondents.

2. These prayers are apparently quite vague. We may note that Form No. 37-I is filed under rule 48L of the Income Tax Rules and it contains a statement of transfer of immovable property required to be furnished to the appropriate authority u/s 269UC of the Income Tax Act, 1961. Form No. 37-I is to be signed by both the transfer and the transferee. Particulars of the transferor and transferee are required to be given. A copy of the agreement for transfer of the property in question is also to be filed along with this form. It is the requirement of section 269UC that transfer of immovable property cannot be effected at least four months before the intended date of transfer and accordingly the agreement to transfer is required to be reduced into witting. The petitioners are transferors of the property bearing No. C-63, Maharani Bagh, New Delhi. Earlier they entered into an agreement to sell this property with Mr. J.K. Rajgarhia which transaction fell through. Then another agreement to sell was entered into with the 4th respondent and in furtherance thereof the petitioners have received Rs. 27 lakhs while the sale consideration was Rs. 2,55,00,000. There is a dispute between the petitioner and the 4th respondent as to the terms of the agreement and if those terms had been complied with by the 4th respondent. Reference was made to a suit filed by J.K. Rajgarhia for specific performance of the agreement to sell. This suit filed by J.K. Rajgarhia is Suit No. 451 of 1995 and is filed on December 2, 1995. All the petitioners are defendants in that suit. J.K. Rajgarhia has complained of breach of the agreement to sell in respect of the same property with the petitioner after the first agreement with J.K. Rajgarhia fell through. The fourth respondent said that it had paid a substantial sum of money to the petitioners and also entered into a valid and subsisting agreement to sell. With this application under Order 1, rule 10, of the Civil Procedure Code, filed in that suit the 4th respondent also filed the agreement to sell dated February 10, 1995, and also a copy of Form No. 37-I bearing the signatures of the petitioners and the 4th respondents. Photo copies of various receipt evidencing payment of Rs. 27 lakhs by the 4th respondent to the petitioners have also been filed.

3. The petitioners say that the appropriate authority should not act on Form No. 37-I and that before any action is taken they should be heard. They say that in spite of their writing various letter to the appropriate authority there has been no response and they apprehend that an adverse order might be passed on or before May 31, 1995, which is the last date to pass the order under Chapter XX-C of the Act for purchase of the immovable property by the Central Government.

 

We have been unable to appreciate the arguments of the petitioners. We are not going into the alleged disputes between the petitioners and the 4th respondent. No order has been passed by the appropriate authority and there appears to us to be no basis for the petitioners to come to this court in writ jurisdiction and to seek the reliefs aforementioned. Every authority is presumed to act in accordance with law and we see no reason why the appropriate authority would depart from that rule and would not act in accordance with law. We Therefore, find no merit in this petition and the same is dismissed.

 