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

% *Judgment delivered on: 18th July, 2013*

+ **CM(M) 657/2013 & CM Nos. 9894/2013 & 9895/2013**

NEETU SAINI

..... Petitioner

Through: Mr. Alak Veer Singh, Mr. Manish
Raghav and Mr. Nikhil Singh,
Advocates.

Versus

RAM SINGH (DECEASED) & ANR.

..... Respondents

Through: None.

Mr. Mahesh Chaudhary, Ms. Rakhi Ray and
Mr. S.S Ray, Advocate on behalf of Col. J.P.
Singh, i.e., interested party.

CORAM:

HON'BLE MR. JUSTICE SURESH KAIT

SURESH KAIT, J. (Oral)

CM(M) 657/2013

1. Present petition is filed against the impugned order dated 27.05.2013, whereby the learned Judge has issued the warrants of possession.
2. In Execution Petition No.7/12, matter was listed on the point whether warrants of possession was to be issued or not. On the very same day, the petitioner moved an application under Section 151 CPC for recalling the

order dated 17.05.2013. Admittedly, on said date the matter was only adjourned for 27.05.2013. On the said date, the petitioner filed an application under Order XXI Rule 101 CPC and the same was fixed on 23.08.2013 for reply.

3. I note, in the instant petition, the petitioner has arrayed (Late) Ram Singh as respondent No. 1 (dead person) and Mrs. Kirpal Kaur, her own mother as respondent No.2, and no third party having vested interest in the suit property has been made party by the petitioner. Though the instant petition is liable to be dismissed for non-joinder of proper parties, but application under Order XXI Rule 101 CPC is still pending for adjudication, wherein the learned Judge was supposed to pass an order.

4. Learned counsel appearing on behalf of Col. J.P.Singh, who is not made a party in the matter and is a necessary party, has submitted that reply to the aforesaid application under Order XXI Rule 101 CPC has not been filed and the same shall be filed within one week.

5. Let the needful be done as prayed with an advance copy to the other side. Rejoinder thereto, if any, shall be filed within three days thereafter.

6. The application under Order XXI Rule 101 CPC is listed for 23.08.2013. Ld. Counsel appearing on behalf of interested party has undertaken not to take any further coercive steps, in view of the directions issued vide order dated 27.05.2013 and 01.07.2013, from today onwards.

7. Keeping in view the facts and circumstances of the case, as both parties agreed, the next date of hearing, i.e., 23.08.2013 stands cancelled and the same is pre-poned to 03.08.2013.

8. Accordingly, the Ld. Judge is directed to decide the above mentioned application, and consequence of the same shall take effect in accordance with law.

9. In view of the above, the instant petition is disposed of.

10. A copy of this order be given *dasti* to the learned counsels for the parties under the signatures of the Court Master.

CM Nos. 9894/2013 (for stay) & 9895/2013 (u/O 1 R 10 CPC)

With the disposal of the petition itself, both the abovementioned applications have become *infructuous*. The same are disposed of accordingly.

SURESH KAIT, J.

JULY 18, 2013

Sb/jg