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

+ EX.F.A. 11/2016 & CM APPL.9192-9193/2016

PAWAN KUMAR GOEL Appellant

Through: Mr. Rohan Kanhai, Advocate

versus

SURESH CHANDER GUPTA AND ANR. Respondents

Through:

CORAM:

HON'BLE MR. JUSTICE V.K. SHALI

ORDER

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11.03.2016

1. This execution first appeal has been received. I have heard the learned counsel for the appellant. I have also gone through the paper book including the impugned order.

2. The respondent/decreed holder had obtained a decree of eviction dated 14.10.2013 passed by the learned Senior Civil Judge-cum-Rent Controller. The said decree of eviction was challenged by the present appellant/judgment debtor before the High Court. In that challenge an order dated 20.12.2013 was passed by the High Court which was to the effect that the present appellant/judgment debtor had sought time to vacate the premises for which purpose he was directed to file an undertaking. The appellant was given two years time to vacate the premises on or before 30.12.2015 on filing an undertaking. The said undertaking was also filed in the High Court

of Delhi. Since the appellant/JD failed to comply with the undertaking, the respondent/decreed holder proceeded against him by filing an execution petition of the decree as well as by initiating contempt action against the appellant/judgment debtor for wilfully disobeying the undertaking having been given by him.

3. The said execution petition was contested and the four applications filed by the appellant/judgment debtor under different provisions of law were filed before the Executing Court. The Executing Court took note of these facts which are reflected in the order dated 03.03.2016. It has transpired from the impugned order that the decree holder and his children wanted to execute the decree which was sought to be avoided by the appellant. The applications of the appellant were dismissed as frivolous. Feeling aggrieved, the appellant had filed the present appeal.

4. I do not find any merit in the appeal of the appellant for the reason that the appellant/judgment debtor after having availed of the entire period of two years in terms of the undertaking having been furnished has tried to perpetuate his possession by taking false plea that he has never filed any undertaking nor was he aware of the same. If this kind of frivolous, malicious and dishonest statement is permitted to be ground for staying the execution, then practically no decree holder will be able to enjoy the fruits of the decree.

5. As a matter of fact this is a fit case where the appellant/judgment debtor, who is unscrupulous deserves to be dealt with under Contempt of Courts Act and put behind the bars for having wilfully disobeying the undertaking given by him to this Court so that such act detriment not only to him but to other likeminded persons.

6. Dismissed.

7. Since the appeal has been dismissed no orders on the applications are called for.

V.K. SHALI, J

MARCH 11, 2016
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