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IN THE HIGH COURT OF DELHI AT NEW DELHI

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CONT.CAS(C) 573/2016

MANISH JAIN

..... Petitioner

Through: Ms. Damini Chawla, Adv.

versus

KAMLESH CHAND GUPTA & ANR

..... Respondents

Through: None

CORAM:

HON'BLE MR. JUSTICE MANMOHAN

ORDER

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08.07.2016

Matter has been listed today as 07th July, 2016 was declared holiday on account of Idu'l Fitr.

It is pertinent to mention that the present contempt petition has been filed alleging wilful disobedience of the order dated 24th December, 2014 passed in CS(OS) 1077/2008 whereby the respondents were restrained from interfering with the petitioner's possession in property bearing plot no. R-2, R-3 and R-4 out of Khasra No. 18/9, 9/7 and 21/7, Village Dhirpur, Rishab Nagar, Model Town, Delhi.

Learned counsel for the petitioner states that the alleged contemnors-respondents are in occupation of the suit premises and are not allowing the petitioner to enjoy the suit premises, despite the petitioner's suit having been decreed by this Court.

This Court is of the opinion that since the petitioner has an

alternate effective remedy by way of an execution petition, the present contempt petition should not be entertained.

A coordinate Bench of this Court in ***Jamna Datwani v. Kishin Datwani and Others***, MANU/DE/4122/2014 has held as under:-

“10. The contempt power under the Contempt of Courts Act is not only discretionary but is also to be used sparingly. A trend which has been noticed by this court is that parties invariably try to invoke the provisions of the Contempt of Courts Act in order to get orders implemented while there is machinery provided under the CPC for the purpose of getting orders, decrees or directions executed.”

In view of the aforesaid, the present contempt petition is dismissed with liberty to the petitioner to file execution proceedings.

MANMOHAN, J

JULY 08, 2016
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