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IN THE HIGH COURT OF DELHI AT NEW DELHI

+ CONT.CAS(C) 869/2016

REMAL DASS DUDEJA

..... Petitioner

Through: Petitioner in person.

versus

SANTOSH MEHLAWAT

..... Respondent

Through: None.

CORAM:

HON'BLE MR. JUSTICE MANMOHAN

ORDER

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16.08.2016

Present contempt petition has been filed alleging wilful disobedience of the order dated 19th February, 2016 passed in RSA 281/2014 whereby the respondent was directed to pay arrears of rent from 01st August, 2000 to 31st August, 2003 at the rate of Rs.4,500/- per month and further directed to pay interest on the arrears of rent from the date of filing of the suit till realisation at the rate of 15% per annum.

Petitioner, who appears in person, states that respondent has to pay Rs.12,81,675/- to the petitioner.

However, this Court is of the view that in the present case no undertaking was given to the Court by the respondent. Consequently, the appropriate remedy available to the petitioner is to file an application for execution under Order XXI Rule 32 of the Code of Civil Procedure.

The Supreme Court in ***Kanwar Singh Saini Vs. High Court of Delhi, 2012 (4) SCC 307*** has held as under:-

“26. The case requires to be considered in the light of the aforesaid settled legal proposition. Whatever may be the circumstances, the court decreed the suit vide the judgment and decree dated 12-5-2003. The said decree was passed on the basis of admission/undertaking made by the appellant on 29-4-2003 and the pleadings taken by him in his written statement. Therefore, in a case where there was any disobedience of the said judgment and decree, the application under Order 39 Rule 2-A CPC should not have been entertained. Such an application is maintainable in a case where there is violation of interim injunction passed during the pendency of the suit. In the instant case, no interim order had ever been passed. Thus, the appropriate remedy available to the decree-holder Mohd. Yusuf had been to file application for execution under Order 21 Rule 32 CPC. The procedure in execution of an injunction decree is same as prescribed under Order 39 Rule 2-A i.e. attachment of property and detention of the disobedient to get the execution of the order. In view thereof, all subsequent proceedings were unwarranted.

(emphasis supplied)

Consequently, the present contempt petition is dismissed with liberty to the petitioner to file the execution proceedings.

MANMOHAN, J

AUGUST 16, 2016

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