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IN THE HIGH COURT OF DELHI AT NEW DELHI

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CONT.CAS(C) 948/2016

BIRPAL

Through

..... Petitioner

Mr. Sunil Kumar, Advocate

versus

SHOKINDER

Through

..... Respondent

None

CORAM:**HON'BLE MR. JUSTICE MANMOHAN****ORDER**

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12.08.2016

Since the petitioner has an alternate effective remedy by filing an application under Order 39 Rule 2A CPC, this Court refuses to exercise its contempt jurisdiction.

In fact, 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, present contempt petition is dismissed.

MANMOHAN, J

AUGUST 12, 2016

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