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

+ **CONT.CAS(C) 1016/2016 & C.M.No.32845/2016**

VIBHA DHEMAN

..... Petitioner

Through Mr.Jay Salva with Ms.Shilpi
Choudhary and Mr.Jasdeep Dhillon,
Advocates.

versus

DINESH DHEMAN & ORS

..... Respondents

Through

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Date of Decision: 07th September, 2016

CORAM:

HON'BLE MR. JUSTICE MANMOHAN

J U D G M E N T

MANMOHAN, J: (Oral)

1. Present contempt petition has been filed alleging wilful disobedience of the order dated 22nd January, 2016 passed in Execution Petition No.112A/2015 whereby warrant of attachment of moveable and immovable properties against the respondent no.1 were issued.
2. Learned counsel for the petitioner states that respondent no.1 has sold the property bearing E-381, Greater Kailash-II, New Delhi to respondent no.5 on 17th May, 2016.
3. He contends that the injunction order dated 25th March, 2014 passed by a Coordinate Bench of this Court in a partition suit filed by the sister of the respondent has also been violated. He also points out that the Punjab

and Haryana High Court vide order dated 12th April, 2016 has restrained the respondent no.1 from alienating his properties till further orders.

4. A perusal of the record reveals that the execution proceedings in which the attachment order dated 22nd January, 2016 had been passed has been disposed of as satisfied on 14th July, 2016.

5. The injunction order dated 25th March, 2014 in the partition suit is not in a proceeding to which the present petitioner is a party. In any event, if the injunction order dated 25th March, 2014 has been violated, the remedy is under Order 39 Rule 2A of the Code of Civil Procedure.

6. Moreover, if there has been a violation of the Punjab and Haryana High Court order dated 12th April, 2016, the remedy lies by filing appropriate proceedings in the Punjab and Haryana High Court only.

7. At this stage, learned counsel for the petitioner refers to the judgment of the Supreme Court in ***Patel Rajnikant Dhulabhai & Anr. Vs. Patel Chandrakant Dhulabhai & Ors., (2008) 14 SCC 561***, wherein it has been held as under:-

“67. A reference in this connection may also be made to a decision of this Court in Tayabbhai M. Bagasarwalla v. Hind Rubber Industries (P) Ltd. In that case, the plaintiff landlord filed a suit against the defendant tenant in the City Civil Court for permanent injunction restraining the defendant from carrying on construction in the suit premises. Ad interim injunction was granted by the court. The defendant’s application for vacating injunction was dismissed. The defendant, however, committed breach of injunction. The plaintiff, hence, filed an application under Order 39 Rule 2-A of the Code. The defendant came forward and raised an objection as to jurisdiction of the court and power to grant injunction. The High Court, ultimately, upheld the objection and ruled that the City Civil Court had no jurisdiction to entertain the suit. It was, therefore, argued by the defendant that he cannot be

punished for disobedience of an order passed by a court which had no jurisdiction to entertain a suit or to grant injunction. The High Court upheld the contention. The plaintiff approached this Court.”

8. He also states that as the property had been sold during the subsistence of the attachment order dated 22nd January, 2016, the present contempt petition is maintainable.

9. In the opinion of this Court, if the attachment order had been violated, it was the duty of the petitioner to point out the said fact to the executing court. Admittedly, the execution proceedings have been closed as satisfied as the payment due to the petitioner has been made. Even if the petitioner was not aware of the disposal of the property on the date the execution proceedings were closed, it was incumbent upon the petitioner to have moved the said court and brought the said development to the notice of the executing court rather than filing the present contempt petition.

10. In fact, the manner in which the present petition has been filed and urged leaves this Court with no doubt that the present contempt petition has been filed with a view to ‘arm twist’ the respondents to somehow settle the matter on the petitioner’s terms and conditions. With the aforesaid observations and liberty, the present contempt petition and the application are disposed of.

MANMOHAN, J

SEPTEMBER 07, 2016
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