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

+ **CONT.CAS(C) 1068/2016**

M/S R MANISH JEWELLERY PVT LTD Petitioner

Through **Mr.Dhiraj Sachdeva, Advocate.**

versus

SAURABH KAPOOR & ORS Respondents

Through

CORAM:

HON'BLE MR. JUSTICE MANMOHAN

ORDER

% **22.09.2016**

Present contempt petition has been filed alleging wilful disobedience of the order dated 3rd March, 2016 passed in CS(OS) No.775/2014, whereby a decree was passed in terms of the Settlement Agreement dated 13th January, 2016 by virtue of which the respondents agreed to pay Rs.52 lakhs in full and final settlement amount in 17 instalments.

Learned counsel for petitioner states that despite the aforesaid order, respondents have not made any payment between March and August, 2016 except Rs.3 lakhs in August, 2016.

However, in the opinion of this Court, the petitioner has an alternative effective remedy by way of an execution proceeding.

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)

In view thereof, present contempt petition is disposed of with liberty to the petitioner to file an execution proceeding.

MANMOHAN, J

SEPTEMBER 22, 2016

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