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

+ C.R.P. 190/2016 & CM Nos.43692-93/2016

GOLDY KAUR Petitioner

Through Mr.S.S.Saini, Advocate

versus

NEHA Respondent

Through None.

CORAM:

HON'BLE MR. JUSTICE JAYANT NATH

ORDER

% **25.11.2016**

CM No.43692/2016 (*exemption*)

Allowed subject to all just exceptions.

C.R.P. 190/2016 & CM No.43693/2016 (*stay*)

1. The present revision petition is filed seeking to impugn the order dated 15.10.2016 passed in execution petition being No.47/2016 by which order the trial court had declined to stay the execution of the decree dated 04.06.2015 and had also issued a show cause notice on the appellant and her counsel as to why a complaint be not made against them under Section 340 Cr.P.C. for an offence punishable under Section 209 IPC.
2. The present appeal is only directed against the order of the trial court declining stay in the execution petition.
3. The background facts of the case are that the respondent filed a suit for possession of ground floor property bearing No.A-345/46, Ground Floor, JJ Colony, Khayala, Vishnu Garden, New Delhi stating that the petitioner is

her tenant and paying a rent @ Rs.4,000/- per month. On 04.06.2015, the suit was decreed in favour of the respondent. The petitioner filed an RFA before the appellate court which was dismissed on 26.02.2016. Thereafter, the petitioner filed a RSA before this court which was also dismissed on 09.09.2016.

4. The respondent filed an execution petition now to execute the decree in her favour dated 04.06.2015. The petitioner filed objections under Order 21 Rules 26 and 29 CPC before the executing court stating that the suit filed by the petitioner qua declaration of documents of ownership in favour of the judgment debtor is still pending, hence the judgment was not executable.

5. A perusal of the application under Order 21 Rules 26 and 29 CPC for stay of the execution of the decree shows that the grievance of the petitioner is that the petitioner seeks to approach the Supreme Court of India by filing an SLP to challenge the order dated 09.09.2016 passed by this court in RSA. Hence, the request was made for staying the operation of the said decree dated 04.06.2015. Reliance was placed on Order 21 Rule 26 CPC in this regard. It was further averred that the execution petition should be stayed pending the suit between the petitioner and the respondent which pertains to declaration and possession of the first, second and third floor of the suit property.

6. In my opinion, the trial court rightly dismissed the application of the petitioner. The petitioner cannot be permitted to go on repeatedly filing one proceeding or other to install the decree passed in her favour. The decree has been upheld by the appellate court in appeal and by the High Court in RSA. This court had dismissed the appeal on 09.09.2016. There was enough time with the petitioner to have approached the Supreme Court in case she

had to file any SLP. It is manifest that the application/objections filed to the execution are a gross abuse of process of law. There is no merit in the present revision petition and the same is dismissed. All the pending applications also stand dismissed.

JAYANT NATH, J.

NOVEMBER 25, 2016/v