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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ CM(M) 750/2015 & C.M.No.15314/2015
HANEEF MOHAMMAD

..... Petitioner
Through Mr.Kumar Sushobhan and Mr.Vikram
Khanna, Advocates.

versus

HAJI DR ZAKIR ALI

..... Respondent
Through Nemo.

CORAM:
HON'BLE MS. JUSTICE INDERMEET KAUR

ORDER
% **26.02.2016**

Learned counsel for petitioner is aggrieved by the order dated 22.7.2015. His submission is that the Trial Court has ample powers to arrest the judgment debtor as service already stood effected upon him. Attention has been drawn to the order dated 16.3.2015 wherein it has been recorded that the service has been effected on the judgment debtor on 02.3.2015 and the judgment debtor in spite of service has not appeared. Order XXI Rule 41 (1),(2) and (3) presuppose a situation that where a judgment debtor has been served he should be directed to file a details of his assets which should be on an affidavit. In case of disobedience of such an order the Court may order that such a person who has disobeyed the order be detained in the civil prison. Once the judgment debtor has been served, it was incumbent upon the Trial Court to direct him to file his list of assets

on an affidavit and in case of disobedience the next corollary as contained in Order XXI Rule 41(3) of the CPC would follow.

Learned counsel for the petitioner in support of his case also placed reliance upon a judgment of a Bench of this Court in Ex.P.275/2012 M/s Bhandari Engineers & Builders Pvt. Ltd. vs. M/s Maharaia RajJoint Venture & Ors. wherein the procedure for filing of details of assets by a judgment debtor has been detailed; this order was passed keeping in view the constraints suffered by the decree holder in getting their decrees executed.

The impugned order is set aside. The Trial Court shall abide by the procedure contained in Order XXI Rule 41 of the CPC.

Petition disposed of.

INDERMEET KAUR, J

FEBRUARY 26, 2016

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