

\$~A-45

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

+ CM(M) 190/2017 and CM Nos. 6256-57/2017

M.K RASTOGI

..... Petitioner

Through Mr. Ashutosh Bhattacharya,  
Mr.R.D.Upadhyay, Mr.H.S.Sharan and Ms.Asha  
Upadhyay, Advocates.

versus

LATA DETWANI

..... Respondent

Through

**CORAM:**

**HON'BLE MR. JUSTICE JAYANT NATH**

**ORDER**

%

**17.02.2017**

1. By the petitioner filed under Article 227 of the Constitution of India, the petitioner seeks to impugn the order dated 01.02.2017 passed by the executing court. The suit has been decreed against the respondent and a decree of possession has been passed in favour of the respondents and against the petitioner regarding Shop No.G/28, Vardhman Royal Plaza, LSC (GF), Gujrawala Town, Part-I, Delhi. A decree of Rs.8,95,000/- has also been drawn up in favour of the respondent and against the petitioner on account of arrears of rent.

2. Earlier also the petitioner filed an petition being CM(M) 1067/2016 seeking to challenge the order dated 30.09.2016 passed by the executing court whereby his objections under Section 21 Rule 101 CPC read with Section 151 CPC were dismissed. This court had vide its order dated

24.10.2016 disposed of the petition of the petitioner directing that on the petitioner depositing a sum of Rs.2 lakhs before the executing court on 03.11.2016, the attachment proceedings against the petitioner for movable properties shall remain stayed for a period of two months to enable the petitioner to comply with the decree.

3. The petitioner challenged the said order dated 24.10.2016 before the Supreme Court in SLP No. 35692/2016. Presumably the SLP was dismissed though a copy of the order has not been placed on record. The petitioner has only placed on record a copy of the order dated 05.01.2017 passed on IA No. 02/2017 filed in the SLP whereby the Supreme Court extended the time to pay the decretal amount up to 30.01.2017.

4. Learned counsel for the petitioner submits that on 31.01.2017, the petitioner has paid a sum of Rs.2 lacs. He also submits that as per the impugned order, the petitioner has also paid a sum of Rs.7,20,000/- to the decree holder. Hence, he submits that a total sum of Rs.9,20,000/- has been paid. He relies upon the decree sheet to contend that the total amount in the decree was only Rs.8,95,000/-.

5. A perusal of the impugned order would show that it has noted the submission of the decree holder that another sum of Rs.5 lakhs remains unpaid by the petitioner. It has directed the parties to submit their respective calculations of entire remaining decretal amount on their respective affidavits and to file the same before the trial court on 14.02.2017. The Nazir was also directed to make calculations of the entire decretal amount before the next date. It deferred passing of further order till the receipt of these calculations

6. In view of the above, it is clear from the above that all what the

impugned order has done is directed the parties to file their calculations. It has also directed Nazir to file the calculation. No prejudice would be caused to the petitioner by the said directions of the executing court. The submissions which have been made before this court should be made by the petitioner before the executing court.

7. The petition is disposed of with the above observations.
8. All pending applications also stand disposed of.

**JAYANT NATH, J**

**FEBRUARY 17, 2017/rb**