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

+ **CM(M) 304/2017**

KUMKUM MEHRA & ORS Petitioner
Through Mr.Sunil Kumar Sharma and
Mr.Ashish Kulshrestha, Advocates

versus

KAVITA AGGARWAL & ANR Respondent
Through

CORAM:
HON'BLE MR. JUSTICE JAYANT NATH

ORDER

% **28.03.2017**

CM No.10436/2017 (Exemption)

Exemption allowed, subject to all just exceptions.

CM(M) 304/2017 & CM No.10435/2017 (stay)

1. By the present petition under Article 227 of the Constitution of India the petitioner seeks to impugn the order dated 27.1.2017 by which the objections filed by the petitioner/judgment debtor to the execution of the decree of the trial court dated 2.6.2012 were dismissed.
2. As per the decree the trial court has among other reliefs passed a decree of mandatory injunction against the petitioner/defendant to remove the unauthorised and illegal construction of bathroom and kitchen raised in the open courtyard of the suit property.
3. I have heard learned counsel for the petitioner. He submits that there are various infirmities in the decree dated 2.6.2012. He submits that the area

is a part of the slum property and hence no order could have been passed by the Civil Court in view of The Slum Areas (Improvement and Clearance) Act, 1956. He secondly submits that the respondents are not the owners of the property and the property has been sold by the original owners in violation of Section 92 of CPC. He also relies upon a judgment of a Division Bench of this court in ***Veera Rai vs. S.P.Sachdeva, 27 (1985) DLT 343.***

4. Essentially, what the petitioner is seeking is to go behind the decree which has attained finality. It is settled law that the executing court cannot go behind a decree.

5. Reliance of the learned counsel appearing for the petitioner on the judgment in ***Veera Rai vs. S.P.Sachdeva (supra)*** is misplaced. That was a case under Delhi Rent Control Act and an interpretation of section 45 of the Act regarding restoration of essentially supply or service.

6. There is no merit in the present petition. The petition is dismissed. All pending applications, if any, also stand disposed of accordingly.

JAYANT NATH, J

MARCH 28, 2017

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