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

+ EX.P. 93/2016 and EA (OS) 416/2016

SH KARAN MADAN & ORS Decree Holders

Through: Ms. Anu Bagai and Mr. Bhuvan Mishra,
Advocates

versus

SH NAGESHWAR PANDEY Judgement Debtor
Through

CORAM:

HON'BLE MR. JUSTICE R.K.GAUBA

ORDER

% **27.01.2017**

The execution petition at hand arises, *inter alia*, out of part decree of the suit, it being CS (OS) 1633/2012 by judgment dated 26.03.2014, whereby while granting the relief of possession to the plaintiff / decree holder / execution petitioner, the counter claim no.18/2013 of the defendant was dismissed and cost quantified at Rs.10,000/- each were imposed on two applications. The said judgment was challenged by the judgment debtor by RFA (OS) 100/2014 which was dismissed by a division bench of this court by judgment dated 29.01.2016 imposing cost quantified at Rs.75,000/-.

The learned counsel appearing for the execution petitioner submits that the vacant possession of the subject property has been received by the decree holder and the issue concerning the right of

passage has also been resolved. She submits that it is only the recovery of cost through the execution petition which remains outstanding. The learned counsel submits that the cost can be recovered possibly by attachment and sale of a generator which the bailiff's report shows to be lying in the suit property.

It is, however, noted, *inter alia*, from the submissions of the learned counsel for the execution petitioner, that the main suit has since been transferred for trial of the remaining issues raised in this suit to the court of Sh. Surender Singh Rathi, Additional District Judge, New Delhi at Patlia House Court complex where it is listed on 06.02.2017.

Having regard to the facts and circumstances of the case, and the valuation of the relief sought in the suit, as indeed the value of the amount which remains to be recovered through the execution petition at hand, in view of the order promulgated on the decision of the Chief Justice dated 17.11.2016, this execution petition is bound to be transferred to the District Court. It is transferred to the file of Sh. Surender Singh Rathi, Additional District Judge, New Delhi at Patiala House Courts complex for further proceedings in accordance with law to be taken up alongside the suit on 06.02.2017.

It is hoped the learned Additional District Judge shall take expeditious steps for enforcing the order. The Registry to send the file well in time.

R.K.GAUBA, J

JANUARY 27, 2017/yg

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