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

% Judgment delivered on: 12.09.2017

+ **EX.P.263/2013 & Ex. Appl. No. 685/2013**

SUBHASH CHADDHA

..... Decree Holder

versus

PUNEET CHADDHA

..... Judgement Debtor

Advocates who appeared in this case:

For the Decree Holder : Mr. Shashank Vachher, Advocate

For the Judgment Debtors : Mr. Pramod Ahuja, Advocate with
Ms. Amita Sachdeva, Adv. for JD-2 to 4

CORAM:-

HON'BLE MR JUSTICE SANJEEV SACHDEVA

JUDGMENT

12.09.2017

SANJEEV SACHDEVA, J. (ORAL)

1. The decree holder seeks execution of judgment/decreed dated 02.12.2010.
2. By judgment/decreed dated 02.12.2010 the judgment debtor (now deceased, represented by his wife) had agreed to a decree of eviction being passed against him in respect of portion of the property under his possession in property bearing no.491-492, Second Floor, Double Storey, New Rajender Nagar, New Delhi.
3. It is an admitted position that consequent to the said decree on

31.01.2011, the portion in occupation of the judgment debtor and his wife and children was vacated and peaceful possession handed over to the decree holder.

4. It is the contention of learned counsel for the decree holder that after the possession was handed over on 31.01.2011, the wife of the judgment debtor has once again occupied the said property on 03.02.2013. He submits that she has no right, title or interest to occupy the said property.

5. Learned counsel for the judgment debtor submits that since the premises/property was vacated on 31.01.2011 and peaceful and vacant possession was delivered to the decree holder, the judgment/ decree dated 02.12.2010 stood satisfied. He submits that a second execution of a Decree that stood satisfied would not lie.

6. He submits that the wife of the judgment debtor has independent rights in the property which were created after the decree stood satisfied and she continues to occupy the same in accordance with such rights.

7. The judgment and decree dated 02.12.2010 was a decree of possession and contemplated handing over of peaceful and vacant possession of the property by the judgment debtor to the decree holder. Admittedly the decree holder received peaceful and vacant possession of the property on 13.01.2011. On receipt of the peaceful vacant possession of the property by the decree holder, the decree stood satisfied. Further, it is admitted by the Decree Holder that the wife of the

deceased Judgment debtor, who was the son of the Decree Holder has once again come into possession on 03.02.2013.

8. It is settled position of law that once the decree stands fully satisfied, a second execution petition would not lie for execution of the said decree. Reference in this regard may be had to the decision of the Supreme Court in '**SHEW BUX MOHATA AND OTHERS VS. BENGAL BREWERIES LTD. AND OTHERS**', AIR 1961 SC 137.

9. Since the decree already stands fully satisfied the present execution petition is not maintainable and is accordingly dismissed.

10. It is clarified that this Court has neither examined nor commented upon the rights and contentions of the parties with regard to the wife of the deceased judgment debtor coming into possession on 03.02.2013.

11. It is further clarified that this order is without prejudice to the right of the Decree Holder to seek possession from the wife of the deceased Judgment Debtor and the claim of an independent right of the wife of the deceased judgment debtor.

12. Pending application being Ex. Appl. No. 685/2013 also stands disposed of.

13. *Dasti* under the signatures of Court Master.

SANJEEV SACHDEVA, J

SEPTEMBER 12, 2017/nn