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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ CM(M) 426/2017 & CM No.14665/2017 (for stay)
KAMALJEET SHARMA

..... Petitioner

Through: Mr. Sanjiv Bahl, Mr. Udit Gupta &
Mr. Pawas Agarwal, Advs.

Versus

KAVITA SHARMA AND ANR

..... Respondents

Through: Mr. Puneet Mittal, Sr. Adv. with Mr.
Ravin Rao & Mr. Ankit Goel, Advs.
for R-1.
Mr. R.G. Srivastava & Mr. D.K.
Goswami, Advs. for R-2.

CORAM:

HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW

ORDER

% **04.07.2017**

1. This petition under Article 227 of the Constitution of India impugns the order dated 20th March, 2017 of the learned Additional District Judge (ADJ) of dismissal of the objections preferred by the petitioner against the order of attachment of property bearing No.B-18, Second Floor, Kirti Nagar, New Delhi in execution of a money decree in favour of respondent no.2 M/s Gupta Fabrics (P) Ltd. and against the respondent no.1 Mrs. Kavita Sharma.
2. Notice of the petition was issued and vide order dated 19th April, 2017 which continues to be in force, the operation of the impugned order was stayed.
3. The senior counsel for the respondent no.1 and the counsel for the respondent no.2 appear.

4. I have at the outset enquired from the counsel for the petitioner, whether not against the order of dismissal of objections preferred in an execution petition and which order have been conferred the status of a decree, an Execution First Appeal (EFA) would lie.

5. The counsel for the petitioner responds by contending that under Order XXI Rule 58 of the CPC the decision of the objections has to be after recording evidence and since the learned ADJ has vide the impugned order dismissed the objections summarily, without recording evidence, the petition under Article 227 would be maintainable; however he fairly agrees that such a ground is available in EFA also.

6. Once the ground is available in the EFA, the constitutional remedy cannot be entertained.

7. The counsel for the petitioner then states that the petitioner will within seven days prefer an EFA and the interim order be continued for a period of seven days.

8. The said request is found to be reasonable.

9. The petition is disposed of with liberty to the petitioner to prefer appropriate remedy against the impugned order dated 20th March, 2017. Though the petition is disposed of but the interim order dated 19th April, 2017 shall continue in force till 11th July, 2017.

Dasti under signature of Court Master.

RAJIV SAHAI ENDLAW, J.

JULY 04, 2017

‘gsr’..