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

+ CM(M) 599/2015

MOHD NAEEM KHAN

..... Petitioner

Through: Mr.G.B.Sewak, Advocae.

versus

SHAJID ALI & ORS

..... Respondents

Through: Mr.Tarique Siddiqui, Mr.Tanveer
Ahmad & Ms.Reetika Gupta,
Advocates.

CORAM:

HON'BLE MS. JUSTICE PRATIBHA RANI

ORDER

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27.04.2017

1. The petitioner has invoked the jurisdiction of this Court under Article 227 of the Constitution of India feeling aggrieved by the order dated 30th March 2015, whereby the appeal preferred by him against order dated 20th February, 2015, vide which the objections filed by him in Ex.No.113/2013 have been dismissed.

2. Learned counsel for the petitioner submits that the suit property is constructed on government land on which except possession none of the parties has any right, title or interest. It has been further contended that even the identity of the property is disputed. The petitioner herein is in possession of the suit property from where the respondent/decreed holder is trying to dispossess him. Learned counsel for the petitioner submits that both the Courts below have failed to consider the objections raised by him in the

execution proceedings to the effect that decree holder also has no right in the suit property, hence both the orders suffer from perversity and may be set aside.

3. Perusal of the impugned order shows that Civil Suit No.50/1990 (New No.819/1996) for possession and permanent injunction was filed by the decree holder/Noor Jahan Begum, mother of respondent Nos.1 to 5, in the year 1990 which has been decreed on 1st March, 1997. The decree was sought to be executed by filing the Execution Petition No.113/2013.

4. In the Execution Petition No.113/2013 objections were filed not only by the petitioner but also by other objectors which have been dismissed. Thereafter on 20th February, 2015 warrants of possession have been issued in respect of the suit property, to be executed with police aid. The appeal is preferred against the order dated 20th February, 2015 whereby the objections filed by the petitioner herein as well as other objectors have been dismissed. The present petitioner/objector Mohd.Naeem Khan also filed MCA No.05/2015 which has been dismissed on 30th March, 2015 for the following reasons:

“13. Appellant Naim Khan simply produced the authority letter and possession letter executed by Kkausar Ali S/o Shaukat Ali in his favour on 6-1-2014 in respect of property no.255, gali no.4, New Kardam Puri, Delhi. Both the aforesaid letters are on a plain paper. It is pertinent that appellant Naim Khan does not have any document regarding his residential proof.”

5. It is not the case of the petitioner herein that he is having any valid title in respect of the suit property. When his own case is that the suit property is built on government land, he cannot claim any right, title or interest on the basis of any authority letter or possession letter executed by

Khausar Ali S/o Shaukat Ali on 6th January, 2014 so as to object the execution of the decree which was passed in the year 1997. The orders passed by both the Courts below are based on the documents filed by the objector i.e. authority letter and possession letter executed by Khausar Ali S/o Shaukat Ali on 6th January, 2014 and his objections have been rightly rejected.

6. Finding no illegality or infirmity in the impugned order, the petition is dismissed.

CM No.11415/2015 (stay)

Dismissed as infructuous.

PRATIBHA RANI, J.

APRIL 27, 2017

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