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

+ **CONT.CAS(C) 773/2015**

KRISHNA CHAUDHARY Petitioner

Through: Mr. Pradeep Chhindra, Advocate

Versus

SHARAD SHARMA Respondent

Through: Mr. R.M. Sinha, Advocate

CORAM:

HON'BLE MR. JUSTICE SUNIL GAUR

ORDER

% **18.05.2017**

Violation of order of 29th October, 2014 is alleged in this petition. Vide aforesaid order, eviction of respondent from the subject premises has been ordered.

Learned counsel for petitioner submits that respondent is willfully disobeying the directions issued vide order of 29th October, 2014 and so, he should be hauled up for contempt.

On the contrary counsel for respondent submits that prior to order of 29th October, 2014, respondent had filed a suit for specific performance of Agreement to Sell in respect of this property and in an appeal arising out of the said suit, *status quo* has been ordered and petitioner has already sought execution of the order of 29th October, 2014 and so, this contempt petition is not maintainable and it deserves to be dismissed.

Counsel for petitioner relies upon decisions in *Bank of Baroda Vs*

Sadrudin Hasan Daya & Anr. (2004) 1 SCC 360 and *Rama Narang Vs. Ramesh Narang & Anr.* (2006) 11 SCC 114 to submit that both the courses i.e. seeking execution of the order and initiation of contempt proceedings in respect of order in question, are open to petitioner.

Upon hearing and on perusal of order of 29th October, 2014, the material on record and copy of order of 27th July, 2016 in [FAO 291/2016 *Sharad Sharma Vs. Yashpal Singh Joshia & Anr.*] arising out of suit filed by respondent and the decisions cited, I find that recourse to contempt proceedings can be made despite availing of remedy of execution, where there is wilful interference in due course of justice by a party. Pertinently, in *Bank of Baroda (supra)* and *Rama Narang (supra)* it is so indicated while dealing with the cases of consent decrees whereas, instant case is not of consent. The eviction proceedings in the instant case were contested by the parties. This Court is of the considered opinion that petitioner ought not be deprived of the fruits of eviction decree, particularly when respondent is in the possession of premises in question from the year 1999 without paying any rent to petitioner.

Since there is no wilful/substantial interference in the due course of justice by respondent, therefore, proceedings in this contempt petition are brought to an end with clarification that pendency of suit by respondent or orders aforesaid FAO, shall not stall the execution proceedings.

With aforesaid clarification, this petition is disposed of.

(SUNIL GAUR)
JUDGE

MAY 18, 2017

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