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

+ CM(M) 519/2018 and CM 18208-18211/2018

ASHOK KUMAR Petitioner
Through: Ms. Nishtha Garg, Advocate

versus

AMANJIT SINGH & ANR Respondents
Through: None

CORAM:
HON'BLE MR. JUSTICE R.K.GAUBA

ORDER
% **04.05.2018**

The petitioner is the judgment debtor no.2 in terms of money decree which was granted by order dated 30.09.2014 by a learned single Judge of this court in CS (OS) 1287/2012 which was instituted on the original side of this court by the first respondent (decree holder). He is aggrieved because the executing court – now presided over by Additional District Judge (the execution proceedings having been transferred on account of change of pecuniary jurisdiction) by orders dated 01.12.2017 and 31.01.2018 has issued warrant of attachment. The grievance of the petitioner is that his objections under Section 47 and Order XXI Rule 101 read with Section 151 of the Code of Civil Procedure, 1908 (CPC) submitted on 15.01.2016 have not been adjudicated upon and in the orders which are sought to be impugned, there is no reference to such objection having been

pressed on behalf of the petitioner. The petitioner has not filed copy of the proceedings anterior to the order dated 01.12.2017.

After some hearing, the counsel for the petitioner submitted that she may be permitted to withdraw the present petition and the applications filed therewith and instead move an application before the executing court for decision on the aforementioned objections before proceeding with execution of the warrant of attachment.

The petition and the applications filed therewith are dismissed as withdrawn with liberty as prayed granted.

Needless to add, the petitioner will have to move such application, as indicated above, with all promptitude. In the event of such application being filed, the executing court will examine from the record if any objections have remained unaddressed and if so, it shall be duty bound to stay its hands on the execution and instead shall first adjudicate upon the objections before proceeding ahead.

Dasti under the signatures of the Court Master.

R.K.GAUBA, J.

MAY 04, 2018

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