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

+ CM(M) 12/2018 & CM Nos. 306-307/2018

PRITAM SINGH

..... Petitioner

Through: Mr.Randhir Jain & Mr. Dhananjai
Jain, Advocates.

versus

CANARA BANK & ANR

..... Respondents

Through:

CORAM:

HON'BLE MR. JUSTICE R.K.GAUBA

ORDER

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05.01.2018

The petitioner is admittedly the judgment debtor against whom the execution proceedings (Ex.57700/2016) are pending on the file of Additional District Judge (North-West), Rohini, Delhi, the decree having been passed on 04.05.2005 in favour of the first respondent Bank for recovery of the loan amount of Rs. 4,05,384/-. Concededly the decree has become final and binding as the appeal was dismissed by this Court on 19.05.2008. The execution application was moved on 26.04.2010 since the judgment debtors (that include the second respondent) had failed to satisfy the decree.

The execution application came to be dismissed in default on 15.01.2011. On the application later moved by the decree holder, it has been restored by the executing court by order dated 23.11.2017 with costs of Rs. 10,000/- to be deposited with Delhi Legal Services Authority. The

petitioner (the judgment debtor) is aggrieved with the said order on the ground the restoration of the execution application without the delay being properly explained was impermissible. Given the background facts wherein the petitioner has successfully evaded discharge of his liability under the decree for almost 12 years, this Court is not inclined to interfere with the discretion which has been judicially exercised by the executing court. Concededly, the decree has not become stale or time-barred. There is nothing in law that would inhibit the decree holder to bring a fresh execution application to enforce the decree which is for recovery of public money. The decree cannot be allowed to be frustrated for such technical reasons. The restoration of the application virtually tantamounts to entertaining a fresh request for execution.

The petition and the accompanying applications filed therewith are dismissed.

R.K.GAUBA, J.

JANUARY 05, 2018

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