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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ EX.F.A. 26/2019, CM APPL No.31237/2019
M/S EDIT JUNCTION VFX & ANR

Through : Mr.Akshay Singh, Appellants
Sharma, Advocates. Mr.Madhav

versus

GAURAV CHOPRA

Through : None.

..... Respondent

EX.F.A. 27/2019, CM APPL No.31238/2019
M/S EDIT JUNCTION VFX & ANR

Through : Mr.Akshay Singh, Appellants
Sharma, Advocates. Mr.Madhav

versus

NIKHIL CHOPRA

Through : None.

..... Respondent

CORAM:
HON'BLE MR. JUSTICE YOGESH KHANNA

ORDER

% **15.07.2019**

These appeals are against the dismissal of objections vide impugned order dated 20.03.2019 modified vide order dated 29.04.2019 passed in Execution petition No.2564/2016. The brief facts are a suit for recovery under Order XXXVII CPC was filed by the respondent herein against the three defendants including the appellant herein. The appellant along with other two defendants

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allegedly were to make payment of the dues to the respondent and had issue a cheque of ₹3,00,046/-, dishonoured on presentation. On the basis of the averment qua dues and qua dishonour of the cheque, a suit for recovery was filed by the respondent herein and it was decreed against the appellant herein and two others for a sum of ₹3,00,046/- plus pendent lite and future interest @ of 10% p.a.

The appellant herein did not challenge the impugned order in appeal but instead preferred the objections before the executing Court. Since the appeal was not filed, the executing Court held it cannot go beyond the decree and dismissed the objections. It is argued the respondent had also filed a petition under Section 138 of the Negotiable Instruments Act but it was dismissed holding the cheque was forged and hence it is argued the said judgment of criminal complaint would be binding on Civil Court, which per se is wrong.

Since the appellant ought to have filed an appeal against the judgment before the Court of appropriate jurisdiction and since he failed to do so there was no other alternative remedy available to the executing Court but to dismiss the objections. There is no illegality in the impugned order hence this appeal is meritless and is dismissed. Pending applications also stands disposed of in terms of above.


YOGESH KHANNA, J.

JULY 15, 2019
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