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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **CM (M) 147/2020 & CM APPLs. 4800/2020, 4801/2020**
NARINDER KUMAR & ANR. Petitioners
Through: Mr. Abhishek Rautji, Advocate (M-
9205562405)
versus

SHAMSHAD BEGUM (DECEASED) THR LRS. Respondent
Through: None.

CORAM:
JUSTICE PRATHIBA M. SINGH

ORDER
% **05.02.2020**

1. An execution petition was filed by Mst. Shamshad Begum (since deceased) (*hereinafter 'Decree Holder'*) against Shri Daulat Ram. In the said execution petition, the Petitioners herein had preferred objections under Order XXI Rule 97 CPC. The Executing Court had held that the objections are not maintainable and had, accordingly, dismissed the same on 7th January, 2020. The operative portion of the said order reads as under:

“18. As such, all the objections filed by the objectors are dismissed with the costs of Rs.20,000/- to be deposited with the DLSA and receipt thereof be filed on the next date of hearing. In case the receipt is not filed, the objectors shall be liable to deposit further costs of Rs.5,000/- with the DLSA.

*19. Now, issue warrants of possession against the JD and in favour of the DH in respect of the suit property i.e. **property bearing No. 692, Kundewalan, Ajmeri Gate, Delhi-06 as shown in red in the site plan Ex. AW-1/3, as per the certified copy of the site plan on filing of PF. Further, Bailiff is directed to remove all hurdles including lock, doors etc. in order to execute present warrant of possession. Further, Bailiff is directed to take all other***

necessary auxiliary steps for execution of present warrant of possession.

DH shall file an affidavit to the effect that there is no stay or appeal pending on the execution of the eviction order. Concerned SHO is directed to provide police aid and assistance including lady police officer, if required, to the Bailiff for execution of warrant of possession.

DH is directed to appear before Ld. ACJ for appointment of bailiff on 10.01.2020 and for report on 17.01.2020.”

2. Thus, as per the above order while dismissing the objections, costs of Rs. 20,000/- were imposed. Further, warrants of possession were issued in respect of the property bearing no.692, Kundewalan, Ajmeri Gate, Delhi..

3. On 17th January, 2020, the legal heirs of the deceased Decree Holder made a statement before the Executing Court that they have received the vacant and peaceful possession of the tenanted premises on 14th January, 2020. On the said date, after recording the statement of the legal heirs of the Decree Holder, the Executing Court further records that costs of Rs.20,000/- was to be deposited with the Delhi Legal Services Authority (‘DLSA’) and failure in doing so, would make the Objectors/Petitioners liable to further costs of Rs.5,000/-. Since the same was not paid by the Objectors, bailable warrants against both the Objectors were issued by the Executing Court. On 31st January, 2020, since a submission was made by the Objectors that they are in the process of filing an appeal, the Executing Court observed that the same would not be a ground for not depositing the costs and accordingly, non-bailable warrants were issued against both the Objectors. The said order reads as under:

“... In these circumstances, this court has no option but to issue Non Bailable Warrants against both the objectors

through the SHO concerned with direction to produce the receipt of deposited costs. In case of non execution of NBW, the police official concerned is directed to appear in person on the next date of hearing. Further costs of Rs. 5,000/- is imposed upon the objectors for wasting the precious time of the court, Ld. Counsel for the DH as well as the DH. Put up on 07.02.2020 for further proceedings.”

4. Ld. counsel for the Petitioners/Objectors submits that the vacant and peaceful physical possession of the premises has already been handed over and the said dismissal of the objections is itself not being challenged. He only raises the challenge insofar as the imposition of costs and issuance of the non-bailable warrants against the Petitioners/Objectors.
5. Today, Ld. counsel for the Petitioners/Objectors submits that his clients are willing to deposit the initial costs of Rs.20,000/-. In view of the fact that vacant and peaceful possession has already been handed over and the Petitioners agree to deposit the initial costs which were imposed vide the order dated 7th January, 2020, the Petitioners are given time till 25th February, 2020 to deposit the costs of Rs.20,000/- with the DLSA.
6. Until then, the non-bailable warrants of arrest shall not be executed. If the costs are not deposited on or before 25th February, 2020, as per the impugned order, the non-bailable warrants issued on 31st January 2020, shall be executed.
7. The petition along with the pending applications is disposed of in the above terms. Copy of the order be given *dasti* under signatures of the Court Master.

PRATHIBA M. SINGH, J.

FEBRUARY 05, 2020/dk