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

Date of decision: 6th March, 2020

+ **CM(M) 312/2020 & CM APPL. 9050/2020**

ASHOK OHRI & ANR

..... Petitioners

Through: Mr. M. Dutta, Advocate (M-9810062932)

versus

THE DELHI DEVELOPMENT AUTHORITY

..... Respondent

Through: Mr. G.S. Oberoi, ASC with Mr. Ankur Sharma, Advocate (M-9818783173)

CORAM:

JUSTICE PRATHIBA M. SINGH

PRATHIBA M. SINGH (Oral)

1. The incessant adjournments being granted by the Trial Court and non-passing of orders despite hearing of the arguments in the execution petition is the gravamen of the present petition. The Petitioner is the Decree Holder, in whose favour a final judgment/decreed was passed on 23rd December, 2000. The operative portion of the decree reads as under:

“...

10. So "or as the injunction is concerned, the plaintiff is pleading and testifying vehemently that the defendants have colluded to dispossess him without due process of law and for which the local police has been approached and even the DDA had acknowledged the possession of the plaintiff. The plaintiff has sufficiently brought on record that he is in possession against the certain documents and the Defendant No.2 has no interest in the suit land. It is also being very

well brought on record that the Plaintiff is still apprehending his dispossession which is not controverted by any other piece of evidence. So, it has been sufficiently brought on record that there is an apprehension of being dispossessed. Besides, the Plaintiff has sufficiently brought on record that he is in possession against a creation of legal right after the execution of the documents in the form of General Power of Attorney, Agreement and Will etc. So the possession of the Plaintiff is found to be legal one. Besides this Plaintiff has sufficiently brought on record that there is an apprehension of his dispossession. So it has been successfully brought on record that the Plaintiff has a legal right qua possession.

11. Keeping in view the aforesaid circumstances, I am of the view that the plaintiff is entitled to the relief of injunction and the defendants are hereby restrained from dispossessing the Plaintiff from the suit property bearing No.WZ-4, Main road, Sarswati Garden, New Delhi, without due process of law.

12. In view thereof the suit is partly decreed no order as to costs.

Decree sheet be prepared accordingly and the file be consigned to Record Room.”

2. Subsequent to the passing of the decree/judgment, the DDA is stated to have put up a board in the property stating that the property belongs to the DDA. Hence the Decree Holder sought execution of the above decree. The execution petition was itself filed in 2011 but continues to remain pending. Ld. counsel for the Petitioner has placed on record orders commencing from January, 2019 till the last order dated 1st February, 2020. The same shows that the matter has been repeatedly heard by different judicial officers and no orders are being passed. For example, on 7th June, 2019, arguments were fully heard in the execution application. The matter was adjourned for orders

to 8th August, 2019 and on 8th August, 2019, orders were not pronounced. Again on 21st September, 2019, orders were not pronounced. On 2nd November, 2019, it is stated that the presiding officer had gone on training. On 6th December, 2019, it is stated that the officer who heard the arguments had now been posted to another Court.

3. Despite administrative instructions that even when new posting orders are issued, orders which are pending, ought to be pronounced, it is clear that several Trial Courts are not following the said practice, and are merely releasing the matters or not pronouncing orders. Such a practice has already been deprecated by this Court in several judgments including *Deepti Khera v Siddarth Khera CM(M) 1637/2019 (Decided on 18th November, 2019)*, *YN Gupta (Deceased) v M/s MA Ramzana CM(M) 1827/2019 (Decided on 24th December, 2019)* and *M/s Shushre Securities Pvt. Ltd. v M/s Times A & M (India) Ltd & Ors. CM (M) 98/2020 (Decided on 2nd March, 2020)*

4. Under these circumstances, owing to the long delay that has ensued due to non-pronouncement of orders, it is directed that the execution petition shall now be taken up for hearing on 24th March, 2020, the date already fixed. Orders shall be passed in the execution petition in accordance with law within a period of two months from today.

5. With these observations, the petition and all pending applications are disposed of.

PRATHIBA M. SINGH
JUDGE

MARCH 06, 2020
Rahul