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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**+ **TR.P.(C.) 46/2022****AMAR SINHA**

..... Petitioner

Through: Ms. Savita Malhotra with Mr. Suman
Malhotra, Advocates.

versus

R.C.CHOPRA

..... Respondent

Through: None.

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*Date of Decision: 15th July, 2022.***CORAM:****HON'BLE MR. JUSTICE DINESH KUMAR SHARMA****J U D G M E N T****DINESH KUMAR SHARMA, J. (Oral)****CM APPL.30860/2022 (exemption)**

Exemption allowed subject to all just exceptions.

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1. This is a transfer petition under Section 24 read with Section 151 CPC for transfer of Execution Case No.23300/2016 pending in the Court of learned ADJ-05, Central, Tis Hazari to the Court of Learned Principal District & Sessions Judge, South West, Dwarka, New Delhi.

2. It has been submitted in the backdrop that the dispute had arisen between the parties with respect to an Agreement to Sell dated 20.09.2002, wherein, respondent Judgment Debtor had agreed to sell the LIG Flat bearing No.468, Ground Floor, Pocket-I, Phase-2, Group-2, Sector-14, Dwarka, Delhi. Thereafter since the parties had entered into an arbitration agreement, the matter was referred to the Sole Arbitrator. The Sole

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Arbitrator passed an Award dated 20.08.2007.

3. Learned counsel for the petitioner has submitted that during the arbitration proceedings, the respondent had not appeared.

4. Pursuant to the award, petitioner moved an Execution Petition under Section 36 of the Arbitration & Conciliation Act, 1996. Notice was issued to the Judgment Debtor. However, the Judgment Debtor refused to accept the notice and thus warrants for possession was issued. At this stage, one Sh. Rajesh Kumar Singh, who claimed to be in possession of the subject property, filed objections to the execution petition. Objections were dismissed by the Court of learned ADJ-05, Central, Tis Hazari on 24.12.2019.

5. Learned counsel for the petitioner submits that as per her knowledge, no appeal thereto has been preferred. She further submits that the said Sh. Rajesh Kumar Singh, i.e., the objector had also filed a suit for specific performance pertaining to the same property against the petitioner. The suit was dismissed and the appeal filed thereto was also dismissed. Learned counsel for the petitioner submits that as per her knowledge, no appeal thereto has yet been filed by Sh. Rajesh Kumar Singh. Learned counsel for the petitioner submits that thereafter the respondent filed a petition under Section 34 of the Arbitration & Conciliation Act, 1996 challenging the Award dated 20.08.2007, no stay was granted in the execution petition by the Executing Court.

6. Learned counsel for petitioner submits that on the last date of hearing, i.e., 27.05.2022, when the matter came up for hearing before the Court, it



transpired that the subject matter of the dispute is beyond the territorial jurisdiction of the said Court and therefore warrants for possession could not have been issued.

7. Perusal of the order dated 27.05.2022, indicates that the Judgment Debtor was not present before the executing court. Advance notice of the present petition has duly been served upon the respondent but even at the second pass over, none has appeared.

8. This Court considers that since the property in question is presently situated within the territorial jurisdiction of learned Principal District & Sessions Judge, South West, the execution petition is withdrawn from the Court of learned Additional District Judge -05, Central, Tis Hazari, Delhi and transferred to the Court of learned Principal District & Sessions Judge, South West, Dwarka, New Delhi for consigning it to the Court of competent jurisdiction.

9. Let copy of the order be sent to the Learned Principal District & Sessions Judge (Central) and Learned Principal District & Sessions Judge (South West). The records be transferred accordingly. Parties are directed to appear before Learned Principal District & Sessions Judge (South West) on 4th August, 2022.

10. In view of the above, the present transfer petition stands disposed of.

DINESH KUMAR SHARMA, J

JULY 15, 2022/st