

\$~35

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

% Judgment delivered on: 22.12.2022

+ CM(M) 1460/2022

KEDARNATH GUPTA AND SONS HUF Petitioner

versus

PARSVNATH DEVELOPERS LTD. Respondent

Advocates who appeared in this case:

For the Petitioner : Mr. A.K. Gupta, Advocate with Mr. Shivaji Tiwari, Advocate.

For the Respondent : None.

CORAM:

HON'BLE MR. JUSTICE TUSHAR RAO GEDELA

JUDGMENT

TUSHAR RAO GEDELA, J. (ORAL)

[The proceeding has been conducted through Hybrid mode]

CM APPL. 56039/2022 (for exemption)

1. Exemption is allowed, subject to all just exceptions.
2. The application is disposed of.

CM(M) 1460/2022

3. Mr. A.K. Gupta, learned counsel, who appears for the petitioner/decree holder submits that by way of the impugned order dated 25.11.2022, learned Executing Court has placed the burden of filing the

list of movable and immovable properties of the respondent/ judgment debtor, which in his submission is unwarranted and contrary to the law laid down by the Supreme Court in ***Rahul S. Shah vs. Jinendra Kumar Gandhi And Others*** reported in (2021) 6 SCC 418.

4. Learned counsel submits that the ratio and the guidelines laid down by the Supreme Court are crystallized in the said order in para 42 and more particularly in para 42.6 and 42.12. Learned counsel also submits that the learned Executing Court ought to have exercised its jurisdiction under Order 21 Rule 11 of the CPC, 1908, which has not been done.

5. In view of the above, learned Executing Court is directed to take up the execution proceedings and implement the directions/ guidelines as contained in the judgment of the Supreme Court in *Rahul S. Shah (supra)*.

6. The Executing Court would also bear in mind the provisions of Order 21 Rule 11 of the CPC, 1908 while executing the decree.

7. In view of the above directions, no further orders are required.

8. The petition is disposed of in the above terms.

9. Order *Dasti* under the signatures of the Court Master.

TUSHAR RAO GEDELA, J .

DECEMBER 22, 2022/nd