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

Date of decision: 21.08.2023

+ **CM(M) 1333/2023 & CM APPLs. 42706-07/2023**

NARENDER KUMAR AND ANR Petitioner

Through: Mr. Sahil Nagpal, Advocate with
Petitioner No.1 in person.

versus

KANCHAN BATRA Respondent

Through: Ms. Sangeeta Chandra, Advocate
(DHCLSC)

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CORAM:

HON'BLE MS. JUSTICE MANMEET PRITAM SINGH ARORA

J U D G M E N T

MANMEET PRITAM SINGH ARORA, J (ORAL):

CM APPL. 42707/2023 (for exemption)

Allowed, subject to all just exceptions.

Accordingly, the present application stands disposed of.

CM(M) 1333/2023 & CM APPL. 42706/2023

1. This petition filed under Article 227 of the Constitution of India, impugns the order dated 04.08.2023 passed by the ADJ-02, East District, Karkardooma Courts, Delhi ('Executing Court') in Ex. No. 43/2023, titled as *Narender Kr. Anand & Anr. v. Kanchan Batra*, whereby the Executing Court issued warrants of attachment against the movable assets of the Judgment Debtor i.e., the Respondent herein.



2. The Petitioner herein is the decree holder and the Respondent herein is the judgment debtor before the Executing Court in Ex. No. 43/2023.

3. The learned counsel for the Petitioner states that the Petitioner herein has filed an application under Order 21 Rule 42 of the Code of Civil Procedure, 1908 ('CPC') seeking attachment of both movable and immovable properties of the Judgment Debtor. He states that the details of the immovable properties is duly enlisted at paragraph 3 therein.

3.1 He states that during the pendency of the suit proceedings, the Trial Court *vide* order dated 02.12.2014 in CS (OS) 3492/2014, titled as ***Narendra Kumar Anand & Anr. v. Kanchan Batra***, had, in fact, restrained the Respondent herein from selling, alienating, transferring or creating any third-party interest in respect of title and interest of the suit property i.e., F-13/15 (Block No. F 13, Plot No. 15), Krishna Nagar, Delhi – 110051.

3.2 He states that the Respondent herein as late as 15.05.2023 has made a statement before the Trial Court that she has meagre means and in fact not in a position even to make a payment of costs of Rs. 10 lakhs which were imposed on her by the Trial Court. He states that in view of the admission made by the Respondent before the Trial Court on 15.05.2023 it is imperative that the immovable properties owned by the Respondent are attached to secure the Decree Holder.

3.3 He states that to the knowledge of the Petitioner herein the Respondent does not own any movable properties sufficient for satisfying the decree.

4. Issue notice. Learned counsel for the Respondent accepts notice. She states that the Respondent will duly appear and be represented before the Executing Court on 01.09.2023. She states that the Respondent is also availing her statutory remedy by filing an appeal against the decree.



5. This Court has considered the submissions of the parties and perused the record.
6. In view of the fact that there was an interim order dated 02.12.2014 operating during the pendency of the suit as well as the statement made by the Respondent before the Trial Court on 15.05.2023 expressing her inability to comply with the orders of Court, this Court is of the opinion that the application filed by the Petitioner herein under Order 21 Rule 42 CPC requires adjudication by the Trial Court to secure satisfaction of decree.
7. Since the matter is already listed on 01.09.2023, this Court is refraining from passing any orders and requests the Trial Court to hear and consider the said application filed by the Petitioner along with the execution petition on the said date of hearing.
8. With the aforesaid directions, the present petition is disposed of.
9. Pending applications stand disposed of.

MANMEET PRITAM SINGH ARORA, J

AUGUST 21, 2023/msh/sk

Click here to check corrigendum, if any