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

Date of decision: 24.08.2023

+ CM(M) 1373/2023 & CM APPL. 43617/2023

SH. HARNAM SINGH TYAGI (SINCE DECEASED THROUGH
LEGAL HEIRS) & ORS. Petitioner

Through: Mr. Varun Tyagi, Advocate.

versus

MADAN LAL (SINCE DECEASED) THROUGH
LEGAL HEIRS

..... Respondent

Through: None.

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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):

1. This petition filed under Article 227 of the Constitution seeks a direction to the Commercial Civil Judge (West), Tis Hazari Courts, Delhi ('Executing Court') in execution petition No. 107/2023 to proceed with issuance of warrants of possession with respect to Shop No. WZ-524G together with side room/godown situated at Basai Darapur, New Delhi ('subject property').
2. The learned counsel for the Petitioner states that the suit for possession filed by the Petitioner was decreed by the Civil Judge, Central District, Tis Hazari Court, Delhi ('Trial Court') on 14.07.2022 after 30 years of trial. He states that the said decree has become final as no appeal has been filed against the said decree.



2.1. He states, however, the wife of the Judgment Debtor to deny the Petitioner the fruits of the decree has filed objections on 28.04.2023, which are not maintainable in law.

2.2. He states that though the reply has been filed to the said objections by the decree holder, on 26.05.2023, however, the said Objector's counsel has not appeared before the Executing Court for addressing arguments.

2.3. He states that the Executing Court has adjourned the matter on several dates at the request of the Objector which is causing prejudice to the Petitioner herein i.e., the decree holder.

3. This Court has heard the counsel for the Petitioner and perused the record. The record evidences that the matter has been adjourned on 26.05.2023, 21.07.2023 and 18.08.2023 at request of the counsel for the Objector to address arguments. The relevant extract of the orders dated 21.07.2023 and 18.08.2023 reads as under:

Order dated 21.07.2023

"Matter is fixed for arguments on the objection petition filed by the objectors.

Main counsel for the objectors is not present today due to personal difficulty.

At the request of the proxy counsel for the objector, matter is adjourned for today.

Now, put up for arguments on the objection petition on the NDOH i.e.18.08.2023 at 02:00 p.m."

Order dated 18.08.2023

"Today copies of certain judgments passed in the other proceedings between the parties have been filed on record on behalf of LR's of the JD. Let, copy of the same be supplied by the LR's of the JD to the counsel for the DH within a week from today.

Since the main counsel for the JD is not present before the Court today, put up for arguments on the objection petition on the NDOH i.e. 15.09.2023 at 02:00 p.m."



4. This Court has been apprised that the next date hearing before the Executing Court is 15.09.2023.
5. The Supreme Court in *Rahul S. Shah v. Jitender Kumar Gandhi & Ors. (2021) 6 SCC 418* and *Bhoj Rai Garg v. Goyal Education & Welfare Society & Ors.* in Special Leave to Appeal (Civil) No. 19654 of 2022 *vide* order dated 18.11.2022, has emphasized on the necessity to decide and dispose of the execution petitions within a period of six (6) months from the date of filing of the petition. The said mandate of law and the judgment of the Supreme Court can be achieved with the cooperation of the party/advocate who has to address arguments.
6. In the facts and circumstances of this case, considering the fact that the counsel for the Objector had absented himself from the execution proceedings on more than three occasions; the Executing Court is requested to hear and decide the objections of the objector within a period of one (1) month from 15.09.2023 and proceed with the execution petition, in accordance with law. The Executing Court is requested not to entertain any unnecessary request for adjournment on behalf of the Objector.
7. With the aforesaid directions, the present petition is disposed of.
8. Pending applications, if any stand disposed of.

MANMEET PRITAM SINGH ARORA, J

AUGUST 24, 2023/msh/asb

[Click here to check corrigendum, if any](#)