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

Date of decision: 10.11.2023

+ CM(M) 1856/2023 & CM APPL. 58715/2023

GURCHARAN SINGH Petitioner

Through: Mr. Abhijhit Mishra and Ms. Preeti
Kumari, Advocates

versus

JAGJEET SINGH & ANR. 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 Constitution of India impugns the orders dated 24.01.2023 and 11.09.2023 passed by the ADJ-01, Shahdara District, Karkardooma Courts, Delhi ('Appellate Court') in RCA No. 57/2022, titled as "**Jagjeet Singh and Anr. v. Gurucharan**".

1.1. The Appellate Court vide order dated 24.01.2023 stayed the operation of judgment and decree dated 22.10.2022 passed by the Civil Judge-02, Shahdara District, Karkardooma Courts, Delhi ('Trial Court') in Civil suit no. 55/2022.

1.2. The stay was further extended by the Appellate Court vide order dated 11.09.2023 until next date of hearing before it i.e., till 19.09.2023.

2. Learned counsel for the Petitioner states that the Petitioner herein is



the decree holder and is entitled to recovery of the possession of the suit property. He states that the Petitioner is aggrieved that the operation of the decree dated 22.10.2022 has been stayed by the Appellate Court without recording any reasons and without putting the Respondents to any terms.

2.1. He, further, states that the matter is now listed before the Appellate Court on 30.11.2023 and he prays that the said Court be directed to hear and decide the appeal expeditiously and if the same cannot be done then the application filed by the Respondent for vacation of the stay of decree be decided.

2.2. He states that he has filed written submissions before the Appellate Court and he has no objection if the Appellate Court decides the appeal on the basis of said written submissions. He states that he does not seek to address oral submissions.

2.3. He states that it is a matter of record that the Respondents have not been directed to pay any use and occupation charges during the pendency of the appeal even though a decree of possession has been passed in favour of the Petitioner herein.

2.4. He states that the Respondents are the son and daughter-in-law of the Petitioner. He states that the independent civil suit bearing no. 544/2022, filed by the Respondents claiming a stake in the suit property has also been dismissed on 23.09.2022 and therefore, there is no merit in the appeal filed by the Respondents.

3. This Court has considered the submissions of the Petitioner and perused the record.

4. The Petitioner states that the appeal was heard and reserved for orders on 24.08.2023; however, due to the change of the Presiding Judge the matter



was listed again for arguments.

5. Part arguments in the appeal have already been heard by the Appellate Court as recorded in its order dated 19.09.2023. It has also come on record that the Petitioner herein was not served with an advance copy of the application seeking stay and the interim order granting unconditional stay was passed by the Appellate Court on 11.09.2023 without hearing the Petitioner.

6. In view of the facts of this case, considering that the Petitioner herein is a 76 years old man, the learned Appellate Court is requested to expeditiously hear and decide the appeal filed by the Appellant without granting any unnecessary adjournment to either party.

6.1. If the appeal itself cannot be heard and decided within a reasonable period of time, the learned Appellate Court is requested to decide the application filed by the Appellant under Order 41 Rule 5 of CPC and the Respondent's application for vacation of stay, expeditiously.

7. With the aforesaid directions, the present petition is disposed of. Pending application stands disposed of.

MANMEET PRITAM SINGH ARORA, J

NOVEMBER 10, 2023/msh/aa

Click here to check corrigendum, if any