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

Date of decision: 30.11.2023

+ **CM(M) 1863/2023 & CM APPL. 58747/2023**

DIPIL KUMAR PATHAK

..... Petitioner

Through: Mr. J.C. Mahindroo, Advocate

versus

KANWAR RAJ SINCE DECEASED THR LRS Respondent

Through: Mr. Pramod Kumar Ahuja, Advocate

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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 of India impugns the order dated 04.05.2023 and 26.08.2023 passed by the District Judge, Commercial Court, South East District, Saket Courts, Delhi in civil suit no. 821/2019, titled as **Shri Kanwar Raj (deceased) through LRs v. Dilip Kumar Pathak** ('Trial Court').

1.1. Vide impugned order dated 04.05.2023, application filed by the Petitioner under Order 6 Rule 17 read with Section 151 of Civil Procedure Code, 1908 ('CPC') was dismissed by the Trial Court.

1.2. Vide impugned order dated 26.08.2023, application filed by the Petitioner under Order 47 Rule 1 read with Section 151 of CPC seeking review of order dated 04.05.2023 was dismissed by the Trial Court.



1.3. The Petitioner is the original defendant and Respondent is the original plaintiff before the Trial Court. The suit has been filed for seeking a decree for possession of the ground floor, first floor, second floor, third floor and terrace (except basement) of the property bearing No. L-43, Lajpat Nagar-II, New Delhi 110024, permanent injunction restraining the defendant from removing the goods or creating third party interest in the said property and for recovery of Rs. 13,86,000/- towards arrears of Rent.

2. At the outset, learned counsel for the Respondent states that the suit has since been decreed by the Trial Court vide judgment dated 21.09.2023 in favour of the plaintiff. He states this petition has become infructuous.

2.1. He further states that the Petitioner herein has wilfully failed to comply with the interlocutory order dated 18.08.2020 passed by the Trial Court and consequently he has been held guilty of contempt by Coordinate Bench of this Court vide judgment dated 19.10.2023 passed in CONT.CAS(C) 194/2022.

2.2. He states that the Petitioner was granted six (6) weeks' time to purge the contempt and six (6) weeks expired today i.e., 30.11.2023. He states, however, the Petitioner has neither paid the amount nor surrendered for his imprisonment.

3. At this stage, learned counsel for the Petitioner states that Petitioner is availing his statutory remedy of appeal against the order dated 19.10.2023 passed by the Coordinate Bench of this Court in CONT.CAS(C) 194/2022 and judgment dated 21.09.2023 passed by the Trial Court in civil suit no. 821/2019.

4. The present petition is dismissed in view of the subsequent decree dated 21.09.2023 passed by the Trial Court. Pending applications, if any,



stand disposed of.

5. The Petitioner will be at liberty to raise the grounds urged in this petition in accordance with Section 105 of CPC.

6. The Respondent is directed to take steps for enforcement of the order dated 19.10.2023 in CONT.CAS(C) 194/2022 in accordance with law.

MANMEET PRITAM SINGH ARORA, J

NOVEMBER 30, 2023/hp/ms

Click here to check corrigendum, if any