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

+ **RC.REV. 16/2022, CM APPL. 7109/2024, 32543/2024**

VARUN SHARMA

.....Petitioner

Through: Mr. Varun Sharma and Mr. Shashank
S. Mangal, Advocates

versus

NARINDER KUMAR

.....Respondent

Through: Mr. Ashok Kumr Singh, Sr. Advocate
with Mr. Mukesh Goel, Mr. Asangha
Rai, Mr. Rajat Joshi, Ms. Saloni
Singh and Ms. Eesha Garg,
Advocates

CORAM:

HON'BLE MS. JUSTICE TARA VITASTA GANJU

ORDER

18.12.2024

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1. The Petition is listed today after passing of a detailed order on 02.12.2024.
2. Learned Counsel appearing on behalf of the Petitioner has handed over a copy of the Order dated 16.12.2024 passed by the Executing Court to submit that on that date, the Counsel for Decree Holder had made a submission that the issue before the Executing Court is same as is raised before Delhi High Court.
3. The Registry is directed to scan and upload the order dated 16.12.2024 so that it remains embedded in the case file.
4. Learned Senior Counsel appearing on behalf of the Respondent, on instructions, clarifies that the submission was made by the Respondent in a



different context.

4.1 In any event, so far as concerns the aspect of the restoration, the Petitioner had filed an Application being *CM APPL. 24675/2024* before this Court which Application was withdrawn by the Petitioner on 20.08.2024. Thus, quite clearly, there is no aspect of restoration being examined by this Court.

4.2 Learned Senior Counsel for the Respondent/landlord once again reiterates that the judgment passed by this Court in *Ashok Gupta v. Deepak Rao*¹, which has relied upon the Judgments of the Supreme Court in *NC Daga v. Inder Mohan Singh Rana*² and *Vinod Kumar Verma v. Manmohan Verma*³ has held that once the possession of the subject premises has been restored, nothing further survives in the present Petition and the Petition has become infructuous.

4.3 This Court is supported in its view by judgments passed by Coordinate Benches of this Court including *Om Prakash Ashok Kumar & Sons v. Ajay Khurana*⁴, *Neelam Sharma v. Ekant Rekhan*⁵, and *Bhawani Shankar v Nand Lal and Ors.*⁶

5. After some arguments, learned Counsel appearing on behalf of the Petitioner seeks and is granted permission to withdraw the present Petition with liberty to revive the same in accordance with law, in the event that the possession is restored by the learned Trial Court/Executing Court.

6. The Petition is dismissed as withdrawn with liberty as prayed for.

¹ 2024 SCC OnLine Del 7148

² (2003) 1 SCC 453

³ Civil Appeal Nos. 5220-5221 of 2008 dated 19.08.2008

⁴ 2024 SCC OnLine Del 5228

⁵ 2019 SCC Online Del 6487

⁶ 2021 SCC OnLine Del 4284



Pending Applications stand closed.

TARA VITASTA GANJU, J

DECEMBER 18, 2024
g.joshi

Click here to check corrigendum, if any