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

+ **CM(M) 2005/2024**

SHAHZAD ZAFAR ALI & ANR. Petitioners

Through: Mr. Rajet Aneja, Mr. Noor Alam and
Mr. Ajay Saroya, Advs. along with
petitioner no.1 in person.

versus

SHASHIBIR SINGH SARANG & ORS. Respondents

Through: Mr. Ashim Vachher, Mr. Kunal Lakra
and Mr. Vaibhav Dabas, Advs.

CORAM:

HON'BLE MS. JUSTICE SHALINDER KAUR

ORDER

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29.02.2024

CM APPL. 12649/2024—Exp.

1. Allowed, subject to all just exceptions.
2. Application stands disposed of.

CM(M) 2005/2024, CM APPL. 12648/2024—stay

3. The present petition under Article 227 of the Constitution of India has been filed for impugning the order dated 25.01.2024 and subsequent order dated 23.02.2024 passed by the learned Additional District Judge-04, South district, Saket Courts, New Delhi, in Execution case bearing no. 13 EX 1013/18 titled as “*Shashibir Singh Sarang vs. M/s. Ground Zero Developers and Others*”, whereby the learned Executing Court dismissed the application filed by the petitioners herein seeking an adjournment and allowed an application under Order XXVI Rule 9 Civil Procedure Code (“CPC”) filed by the respondent no.1 herein. The petitioners herein are the Judgment Debtor no. 5 and 6 before the learned Executing Court.



4. After addressing some arguments, the learned counsel for petitioners submits that primarily he is aggrieved with the impugned order whereby the Local Commissioner has been appointed and perhaps subsequently it may not be taken up as consent given by the petitioners for appointment of such Local Commissioner. Moreover, the objections filed on behalf of the petitioners in the Execution petition are still pending disposal for which the learned Trial Court is not making an endeavour to dispose of the same and has passed the impugned order appointing the Local Commissioner. Moreso, vide the impugned order dated 23.02.2024 while dismissing the application of the petitioners for seeking extension of time with respect to the visit of the Local Commissioner, a cost of Rs.10,000/- has been imposed. Learned counsel for the respondent no.1 submits that he has no objection in case the cost is waived of.

5. In view of the above, the petitioners is granted liberty to reserve his right to raise objections, if needed with respect to the report of the Local Commissioner whenever to be placed on record before the learned Executing Court.

6. However, in view of the no objection given on behalf of the learned counsel for respondent no.1 regarding waiver of the cost imposed vide order dated 23.02.2024, the cost of Rs. 10,000/- are waived.

7. It is further submitted on behalf of the petitioners that the Local Commissioner has been directed to inspect the suit premises in possession of the petitioners only whereas the inspection should be conducted of the entire terrace area. The learned counsel for respondent no.1 has raised objection to the same. With respect to this part of the submission, the parties are at liberty to seek clarification before the learned Trial Court and to make



appropriate submissions.

8. The learned Trial Court is further directed to expeditiously decide the objections filed on behalf of the petitioners herein.

9. Parties to appear before the learned Trial Court on 02.03.2024.

10. In view of the above directions, the petition along with pending applications stands disposed of.

SHALINDER KAUR, J.

FEBRUARY 29, 2024/SDS