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

+ **CM(M) 2070/2024 & CM(M) 2075/2024**

WING COMMANDER NAVEEN KUMAR CHOUDHARY RETD

..... Petitioner

Through: Mr.Deepak Prakash, Ms.Vishnupriya
and Mr.Rahul Suresh, Advocates.

versus

KUSUM VERMA & ANR.

..... Respondents

Through: Mr.Himanshu Kapoor, Advocate.

CORAM:

HON'BLE MS. JUSTICE SHALINDER KAUR

ORDER

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11.03.2024

CM APPL. 14713/2024(exemption)

CM APPL. 14755/2024(exemption)

1. Allowed, subject to all just exceptions.
2. Applications stand disposed of.

CM(M) 2070/2024, CM APPL. 14714/2024—Dir. To maintain status quo, CM APPL. 14715/2024—Lengthy synopsis

CM APPL. 14756/2024—dir to maintain status quo, CM APPL. 14757/2024—Lengthy synopsis

3. The present petitions under Article 227 of the Constitution of India have been filed impugning the orders dated 02.02.2024 and 05.03.2024 passed by the learned ADJ (East), Karkardooma Court in Arbitration Case No.1/2023 refusing to stay the operation of the interim award and in Execution Case No.115/2023 granting permission to the bailiff to break open the locks and latches of the subject property for obtaining possession.
4. Issue notice. Learned counsel for the respondents accepts notice.
5. The petitioner herein is a retired Wing Commander currently residing



with his family in the property bearing no. T-05, LL1-01, Common Wealth Games Village, NH-24 adjacent to Akshardham Temple, New Delhi-110092 (hereinafter as “subject property”) on lease from Mr. Pawan Verma vide lease deed agreement dated 18.07.2016 and subsequently on expiry of the same, entered into another lease deed dated 28.08.2019 with respect to the subject property. ffina

6. Thereafter, during the period of lease, the petitioner received an eviction-cum-legal notice dated 22.07.2021 issued on instructions of respondent no. 2 Mr. Gagan Verma holding the Special power of Attorney (SPA) which was executed by Mr. Pawan Verma in his favour, whereby petitioner was directed to handover the peaceful possession by 30.09.2021.

7. Petitioner replied to the aforesaid notice on 28.08.2021 and continued to pay rent till March, 2022. In the meanwhile, as per the clause 20 of the lease agreement, arbitration was invoked. Subsequent thereto, an arbitration petition bearing no. 13/2022 was filed before this court for appointment of arbitrator.

8. Accordingly, this court vide order dated 31.08.2022 appointed the sole arbitrator. During the course of arbitration proceedings, an interim order dated 20.01.2023 came to be passed awarding possession of the subject property to the respondents. Aggrieved by this, petitioner challenged this before the Learned Trial Court in Arbitration Case No. 1 of 2024 and respondents also filed an execution petition bearing no. 115/2023 before the Learned Trial Court for execution of interim award dated 20.01.2023.

9. Vide the impugned order dated 02.02.2024, petitioner’s application for early hearing of the application which sought stay of the interim arbitral award was dismissed on the ground that application under Section 34 of the



Arbitration & Conciliation Act, 1996 was not filed within the prescribed limitation period.

10. Thereafter, vide order dated 05.02.2024, in the execution proceedings, the Learned Executing Court appointed a court Bailiff for execution of warrants of possession. In the meanwhile, the learned sole arbitrator passed the Final Award dated 20.01.2024 awarding the respondents/claimants with compensation, rental amount and interest and rejected the counter-claim filed by the petitioner. The said final arbitral award was challenged in Arbitration Case no. 02/2024 before the Learned Trial Court and the petitioner also made a payment of Rs. 13,52,891 vide 2 demand drafts to the respondents towards the arrears of rent as per the final award.

11. The final award dated 20.01.2024 was stayed with respect to payment of arrears of rent and interest, by the Learned Trial Court vide order dated 07.02.2024. Thereafter, vide order dated 05.02.2024, the Learned Executing Court appointed a court bailiff for execution of the warrants of possession. Upon failure to comply with the same, the respondents filed an application seeking to break open the lock and seize the belongings of the subject property and also sought for police protection to execute the warrants of possession. Thereafter, vide the impugned order dated 05.03.2024, the Learned Executing Court allowed the respondents' application under Order XXI Rule 35(3) read with section 151 CPC and issued fresh warrants of possession with permission to break open the locks and latches of the subject property.

12. Aggrieved by the aforesaid, petitioner has preferred the present petitions seeking indulgence of this court.

13. After making some submissions learned counsel for the petitioner



submits that he has received instructions from the petitioner that he will vacate the subject property T-05, LL1-01, Common Wealth Games Village, NH-24 adjacent to Akshardham Temple, New Delhi- 110092 and handover its peaceful possession to the respondents herein within four weeks from today before the Learned Executing Court.

14. Learned counsel for the respondents submits that the petitioner should vacate the subject property within a week from today since the lease has already expired in July, 2022. However, after taking fresh instructions, learned counsel for the respondents also consented that the subject property be vacated by the petitioner within four weeks.

15. Accordingly, in view of above submissions as the petitioner has undertaken to vacate the subject property within four weeks from today and shall handover the peaceful physical possession to the respondents before the Learned Executing Court, the impugned order is thus stayed till then.

16. With above directions the petitions stand disposed of.

17. The learned counsel for the petitioner submits that the petition bearing number CM(M) 2070/2024 has become infructuous and seeks permission to withdraw the same. Permission to withdraw is granted.

18. The observations made hereinabove shall not tantamount to an expression on the merits of the case.

19. The copy of the order be given *dasti* under signature of the Court Master.

SHALINDER KAUR, J.

MARCH 11, 2024/VLD