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

+ C.R.P. 32/2021

SANTOSH JHA & ANR.

.....Petitioners

Through: Mr. Ajit Sharma, Mr. Vaibhav
Mishra & Mr. Raghav Sood,
Advocates

Versus

SALMA DESHMUKH & ORS.

.....Respondents

Through: None.

CORAM:

HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA

ORDER

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27.03.2025

Crl.M.A. 11074/2025

1. For the reasons stated, delay in filing the Review Petition is condoned.

2. Application is disposed of.

Review Petition No. 99/2025 & Crl.M.A. 17967/2025

3. The present Review Petition has been filed by the Petitioner seeking review of the Judgment dated 10.12.2024. The Review Petition is accompanied by Application under Order XXXIX Rules 1 & 2 read with Section 151 CPC seeking stay of creation of any third party interest during pendency of the Review Petition.

4. Notice of the Petition and Application is yet to be issued, however, learned Counsel for the Petitioners submits that the Review Petition itself



be taken up for final hearing.

5. In view of the submissions made, the Review Petition has been taken up for final hearing.

6. The impugned Order dated 10.12.2024 is challenged on the ground that the Respondent/Plaintiff had though valued the property at Rs.14 Lacs but at the time of his testimony, he himself stated that the present value of the Property is around Rs.25 Lacs, despite which the Respondent has not been directed to pay the deficient Court fees. The finding on the issue of payment of deficient Court fees is, therefore, neglected.

7. The second ground taken is that an Execution Petition was filed for possession within three months and thereafter, the date was preponed behind the Applicant and possession was taken. It is submitted that the manner in which the possession has been taken needs to be reconsidered and the possession be restored.

8. The third ground agitated is that the claim of the Applicant was based on three registered documents of 2001 while the claim of the Respondent was based on unregistered document of 2011, which were subsequent to those of the Petitioner.

9. **Submissions heard and record perused.**

10. Insofar as the deficient Court Fees is concerned, it is a challenge on merits and therefore, beyond the scope of Review Petition.

11. Secondly, if the Applicant is aggrieved that the possession in Execution proceedings has been taken behind his back, he should have sought restoration of possession in the Execution Proceedings and it is beyond the scope of Review Petition.

12. So far as the prayer of the Review Petitioner for consideration of



the documents to establish his possession is concerned, this is again on the merits of the case, which is beyond the scope of review.

13. There is no merit in the Review Petition and it is hereby dismissed.

NEENA BANSAL KRISHNA, J

MARCH 27, 2025

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