



\$~59

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

+ **EX.F.A. 6/2022**

SATENDER SINGH

.....Appellant

Through: Mr. Raghuvinder Godara, Adv.

versus

KULDEEP AGGARWAL

.....Respondent

Through: Mr. Praveen Chauhan, Ms. Malvika Satija, Mr. Sarthak Sawhney and Mr. Parth Sen, Advs.

CORAM:

HON'BLE MR. JUSTICE PURUSHAINDRA KUMAR KAURAV

ORDER

% **21.10.2024**

1. Heard learned counsel appearing for the parties.
2. This appeal is arising out of the order dated 12.11.2021 passed in Miscellaneous Execution No.37/2000.
3. Learned counsel appearing for the appellant submits that the Court in RFA 561/2016 titled as *Kuldeep Aggarwal v. Satender Singh*, vide order dated 09.08.2016, has granted stay, subject to the respondent herein, depositing the entire decretal amount, along with the interest accrued thereon, if any, till the date of deposit, before this Court by way of a demand draft/pay order, in favour of the Registrar General of this Court, within a period of eight weeks from the date of the passing of the order. He further submits that subject to compliance of the aforesaid, the execution of the judgment and decree impugned in RFA 561/2016 was stayed.



4. According to learned counsel, when the grievance was raised before the Executing Court that the order dated 17.10.2016 was not complied with, the Executing Court by way of the impugned order dated 12.11.2021 granted him liberty to approach this Court. Learned counsel, therefore submits that when the order passed by this Court has been disobeyed by the respondent therein, the Executing Court ought to have proceeded with the execution proceedings.

5. On the other hand, learned counsel appearing for the respondent submits that the liberty granted by Executing Court *vide* order dated 12.11.2021 does not give any reason for filing any appeal, rather the appellant herein ought to have approached this Court in pending RFA 561/2016 if he has any grievance with respect to the disobedience of the said order.

6. I have considered the submissions made by learned counsel appearing for the parties and also perused the record.

7. The order dated 09.08.2016 passed in RFA 561/2016 reads as under:

“The present appeal assails the judgment and .decree dated 04.05.2016, passed by the ADJ-04, South West District, Dwarka Courts, New Delhi in CS No.100/2014, whereby the suit for possession and mesne profit instituted on behalf of the respondent herein was decreed against the appellant herein.

Admit.

Trial Court Record be requisitioned.

List this appeal in the category of (Regular Matters J at its turn. List the matter before the Registrar (Appellate) on 16.09.2016 for completion of service in the appeal.

CM APPL.2867112016

Issue notice to' the respondent by all permitted modes, including



dasti, on the applicant/appellant taking necessary steps within two days, returnable on 17.10.2016.

Subject to the applicant/appellant depositing the entire decretal amount, along with the interest accrued thereon, if any, till the date of deposit in this Court by way of a demand draft/pay order, in favour of the Registrar General of this Court, within a period of eight weeks from today, the execution of the judgment and decree impugned in the present appeal, is stayed till the next date of hearing.

It is made clear that if the amount is not so deposited, the respondent shall be entitled to execute the decree subject of course to restitution, in the event of the appeal succeeding.”

8. It is thus seen that the Court passed a conditional order and made it clear that if the amount so directed is not deposited, the appellant herein was entitled to execute the decree subject to the cost to restitution, in the event of the appeal succeeding.

9. It is thus seen that what the Executing Court was required to examine was the compliance of the order dated 09.08.2016. There was no necessity to grant any further liberty to any of the parties. If any of the parties would have any grievance with respect to the findings to be given by the Executing Court, the concerned party could have taken appropriate remedy. The Executing Court, is under an obligation to undertake the mathematical exercise and to proceed accordingly.

10. The Court, therefore, finds that no directions are required in the instant appeal.

11. With the aforesaid observations, the appeal stands disposed of.

PURUSHAINDR KUMAR KAURAV, J

OCTOBER 21, 2024/p