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

+ **CM(M) 2300/2024**

PRAKASH MEENA

..... Petitioner

Through: **Mr. Virendra Singh, Adv.**

versus

SH. NITIN KURANA

..... Respondent

Through: **Mr. Vansh, Mr. Vidur Marwah, Mr.
Kartik and Mr. Naman, Adv.**

CORAM:

HON'BLE MS. JUSTICE SHALINDER KAUR

ORDER

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08.04.2024

CM APPL. 20611/2024—Exp.

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

**CM(M) 2300/2024 & CM APPL. 20612/2024—stay & CM APPL.
20613/2024—for hearing on urgent basis**

3. The present petition under Article 227 of the constitution of India has been preferred impugning the order dated 01.03.2024 passed by learned ADJ-03, Saket Court, New Delhi in Execution No. 486/2019 titled as “Nitin Khurana vs. Prakash Meena” whereby the application moved on behalf of the respondent under Order XXI Rule 37 CPC has been disposed of and the warrants of arrest have been issued against the petitioner, who is the judgment debtor before learned Executing Court, which is to be executed on depositing of subsistence allowance. It is submitted that the subsistence allowance has already been deposited.
4. Learned counsel for the petitioner submits that an arbitration award was passed against the petitioner which has been challenged under Article



227 of the Constitution of India and vide order dated 16.12.2022 passed by this Court, the petition was dismissed while imposing cost of Rs. 1 lakh on the petitioner to be paid to the respondent within four weeks.

5. It is submitted that before the Executing Court, the petitioner was required to file affidavit of assets and liabilities and the petitioner was willing to file the same for the last three preceding year, however, the learned Executing Court required the affidavits to be filed at the time of institution of the arbitration proceedings, at the time of passing of the award and till the next date of hearing. As the petitioner had to seek relevant data from its bank, therefore, the orders could not be complied with and on the application moved on behalf of the respondent under Order XXI Rule 37 CPC, the learned Executing Court considered such conduct of the petitioner as of disobedience of the order of the Court and ordered for the warrants of arrest. It is submitted that in these circumstances, warrants of arrest be stayed.

6. The submissions are strongly opposed on behalf of the respondent. Learned counsel submits that the arbitral award was for a total amount of Rs. 1,29,30,800/-, however, the parties have approached the Mediation Centre, Saket Court, where they have settled for full and final amount of Rs. 36,00,000/- to be paid by the petitioner to the respondent in three instalments which were to be paid by 20.04.2019. The petitioner did not comply with the said settlement. Accordingly, as per the penal clause included in the settlement, the respondent is entitled to recover the entire arbitral amount. Therefore, the impugned order is not required to be stayed. Moreso, the petitioner has also not paid the cost of Rs. 1 lakh till date.

7. Learned counsel for the petitioner in rebuttal submits that part



payment of Rs. 3,40,000/- has already been made and the petitioner is willing to pay another Rs. 4,00,000/- by 26.04.2024 to the respondent before the learned Executing Court. Thus in these circumstances, the impugned order be stayed till 26.04.2024 and thereafter the petitioner shall be moving an appropriate application before the learned Executing Court for payment of the remaining award amount. It is submitted that at this stage, he is also willing to withdraw the present petition.

8. Having considered the aforesaid submissions, the petitioner is directed to pay further amount of Rs. 4 lakhs by 26.04.2024 to the respondent before the learned Executing Court. Subject to the above, the impugned order is stayed till 26.04.2024 and the petitioner is at liberty to move an appropriate application as per law before the learned Executing Court. The petitioner is also directed to pay the cost of Rs. 1 lakh before the learned Executing Court.

9. In view of the above observations and submissions, the learned counsel for the petitioner seeks permission of this Court to withdraw the present petition.

10. Permission to withdraw granted.

11. The petition along with pending applications stands disposed of.

12. Order *dasti* under the signatures of the Court Master as prayed.

SHALINDER KAUR, J

APRIL 8, 2024

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