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

+ **CONT.CAS(C) 1077/2024**

MS. SHAGUFTA BEGUMPetitioner

Through: Mr.R.L.Sinha and Mr.Gurkirat
Singh, Advocates.

versus

SH. MUKHTIAR AHMEDRespondent

Through: None.

CORAM:

HON'BLE MR. JUSTICE DHARMESH SHARMA

ORDER

% **16.07.2024**

CM APPL. 39515/2024

1. Allowed, subject to all just exceptions.

2. The application stands disposed of.

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3. The petitioner is seeking contempt proceedings against the respondent for the wilful and deliberate disobedience of the order dated 20.11.2023 as well as 19.12.2023, passed in RC.Rev.281/2023 and for disregarding the undertaking given on an affidavit dated 15.12.2023.

4. None is present for the respondent despite sending advance notice.

5. This Court is of the considered opinion that the instant contempt petition although maintainable, does not warrant interference since the impugned judgment/decreed dated 20.11.2023 as well as 19.12.2023 are executable orders and appropriate and effective remedy lies before the learned Trial Court/Executing Court. The jurisdiction for initiating contempt proceedings for disobedience of the judicial order/decreed or



writ should be invoked sparingly and cautiously.

6. Reference can be invited to a decision in the case of **Rama Narang v. Ramesh Narang & Anr.**⁶, wherein a consent decree had been passed between the parties in terms of Order XXIII Rule 3 CPC, in which matter, an undertaking was given by the judgment debtor to comply with certain directions, which were evidently flouted thereafter. The Supreme Court held that a violation of breach of undertaking becomes a part of the decree of the Court and certainly amounts to contempt of Court irrespective of the fact that it is open to the decree holder to execute the decree. However, it was also held that much would depend on the facts and circumstances of the case or the contextual background in which the Court may or may not decide to exercise contempt jurisdiction. It was reiterated that normally, the parties should resort for execution of decree or implementation of an order, which is the effective alternate remedy in law.

7. This Court may also invite reference to a decision in the case of **R.N.Dey & Ors. v. Bhagyabati Pramanik & Ors.**⁷, wherein a petition was filed under the Contempt of Courts Act, 1971 for non-payment of the amount awarded consequent to acquisition of land and it was held as under :

“7.....the weapon of contempt is not to be used in abundance or misused. Normally, it cannot be used for execution of the decree or implementation of an order for which alternative remedy in law is provided for. Discretion given to the Court is to be exercised for maintenance of Courts dignity and majesty of law. ...”

8. It was further held that:

“8. ...the decree-holder, who does not take steps to execute the decree in accordance with the procedure prescribed by law, should not be

⁶ (2006) 11 SCC 114

⁷ (2000) 4 SCC 400



encouraged to invoke contempt jurisdiction of the court for non-satisfaction of the money decree.”

9. Avoiding a long academic discussion, we may refer to another decision in **Soorajmull Nagarmull v. Brijesh Mehrotra & Ors.**⁸ wherein the proceedings arose out of the Land Acquisition Act, 1894 the Supreme Court observed that since the Land Acquisition Act, 1894 is a complete code in itself and lays down detailed procedure for acquisition of land, payment of compensation based on common law principles of justice, equity in good conscious, the parties should resort to seeking remedy under the same instead of enlarging the scope of the directions by brining contempt petitions.

10. Reverting to the instant matter, after some arguments, learned counsel for the petitioner requests permission to withdraw the present contempt petition with liberty to seek execution of the eviction order, which has been confirmed by this Court *vide* order dated 20.11.2023; and further seek appropriate relief for executing the judgment/decreed for realisation of the arrears of rent besides user/damages charges for wrongful occupation of the tenancy premises and compensation in accordance with the law.

11. Accordingly, the petition is dismissed as withdrawn.

12. Since the petitioner is a widow and a senior citizen, the learned Executing Court shall take appropriate steps to get the eviction order executed and consider other reliefs to the petitioner, as expeditiously as possible, in accordance with law.

DHARMESH SHARMA, J.

JULY 16, 2024/VLD

8 2021 SCC Online SC 1252