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

% **Date of decision: 18th July, 2024**

+ **CONT.CAS(C) 1086/2024**

UMA SINGHANIA AND ANRPetitioners

Through: **Ms. Richa Singhania, Adv.**

versus

MANOJ CHHIBBER AND ANRRespondents

Through:

CORAM:

HON'BLE MR. JUSTICE DHARMESH SHARMA

DHARMESH SHARMA, J. (ORAL)

1. The petitioners are seeking initiation of contempt proceedings against the respondents/contemnors invoking Section 10 and 12 of the Contempt of Courts Act, 1971 [“**CC Act**”] for the wilful non-compliance of the judgment/consent decree dated 18.01.2024 passed by the learned Additional District Judge-06, Central District, Tis Hazari Courts, Delhi [“**ADJ-06**”].

2. No one is present for the respondents despite sending notice.

3. Learned counsel for the petitioners has submitted that the respondents/contemnors were inducted as tenant in the subject property on the second floor at a monthly rent of Rs. 40,000/- for residential purposes for a period of 11 months. Thereafter, the tenancy continued on a month-to-month basis. Since the respondents/contemnors did not vacate the subject property, despite repeated requests, they were served with a legal notice dated 12.07.2023 to



vacate the premises. It is submitted that upon the respondents/contemnors refusing to vacate the tenancy premises, the petitioners instituted a suit for possession along with the recovery of rent, electricity, and water charged bearing CS DJ 1126/2023. Eventually, a Settlement dated 09.01.2024 was arrived at, whereby the respondents/contemnors agreed to hand over and vacate the tenancy premises on or before 31.03.2024 and also pay arrears of rent totalling Rs. 4,80,000/- in three equal monthly instalments of Rs. 1,60,000/- each. It is further stated that pursuant to the Settlement arrived at, a consent decree was passed in terms of Order XXIII Rule 3 of the Code of Civil Procedure, 1908[“CPC”].

4. The grievance of the petitioners is that the respondents/contemnors have failed to comply with their undertaking and neither they have paid arrears of rent nor have handed over the possession thereof.

5. I am afraid although there is a *prima facie* case in favour of the petitioners that they are entitled to reclaim possession and also arrears of rent, if any, however, the consent decree passed by the learned ADJ-06 is clearly an executable order. The appropriate remedy lies in terms of Order XXI of the CPC.

6. Reference can be made to the decision in the case of **Rama Narang v. Ramesh Narang**¹, wherein a consent decree had been passed between the parties in terms of Order XXIII Rule 3 of the 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 or breach of an 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. At this juncture, reference can be had to decision in the case of **R.N. Dey v. Bhagyabati Pramanik**², 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 encouraged to invoke contempt jurisdiction of the court for non-satisfaction of the money decree.”

9. We may refer to another decision in **Soorajmull Nagarmull v. Brijesh Mehrotra**³ wherein the proceedings arose out of the Land

¹ (2006) 11 SCC 114

² (2000) 4 SCC 400

³ 2021 SCC Online SC 1252



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. In view of the foregoing discussion, the present petition is disposed of with liberty to the petitioners to approach the learned Trial Court/Executing Court for redressal of their grievances.

11. The present petition stands disposed of accordingly.

DHARMESH SHARMA, J.

JULY 18, 2024

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