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

% ***Date of decision: 25th July, 2024***

+ **CM(M) 3005/2024**

MOHIT GUPTA

.....Petitioner

Through: Mr. Shivam Jangra with Ms. Sheetal
Sharma, Advocates with petitioner in
person.

versus

VED PRAKASH KATHURIA

.....Respondent

Through: Mr. Kapil Gulati, Advocate.

CORAM:

HON'BLE MR. JUSTICE MANOJ JAIN

J U D G M E N T (oral)

CM APPL.41627/2024 (exemption)

Exemption allowed subject to all just exceptions.

CM(M) 3005/2024 & CM APPL. 41626/2024 (stay)

1. Learned counsel for the respondent/Decree Holder appears on advance notice and accepts notice.
2. I have seen the impugned order.
3. When the execution came up for hearing before the learned Executing Court on 08.07.2024, despite execution of bailable warrants, the Judgment Debtor (petitioner herein) did not appear before the Court. Rather, an application was moved seeking exemption on the ground that he had been operated upon and,



therefore, was unable to come.

4. Learned counsel for the petitioner states at the bar that though the Judgment Debtor did not appear physically but he had joined the proceedings that day through video conferencing.

5. Fact remains, the learned Trial Court rejected the request of the Judgment Debtor for exemption and resultantly, it also issued NBWs against him, particularly, considering the fact that he had not made the payments to the Decree Holder despite several directions of the Court.

6. The prayer made in the present petition is very limited.

7. It is submitted that there is no intention to defy or disobey the order of the Court and the Judgment Debtor would appear before the learned Executing Court on the date fixed i.e. tomorrow and it is, therefore, prayed that the NBWs be cancelled.

8. Such request has been opposed by the learned counsel for the respondent/Decree Holder on the ground that in the past also, he had taken indulgence of the Court on several opportunities and it is a fit case where no such concession should be given to him.

9. Be that as it may, keeping in mind the overall facts and circumstances of the case, the aforesaid limited request is hereby allowed and the NBWs issued against the Judgment Debtor are cancelled, subject to the condition, that as undertaken by the Judgment Debtor, he would appear before the learned Executing Court tomorrow, i.e. 26.07.2024.



10. Needless to say, he would continue to appear before the learned Executing Court as per the directions of the learned Executing Court.

11. In view of the aforesaid, the petition stands disposed of.

12. Copy of the order be given *Dasti* under the signatures of the Court Master.

(MANOJ JAIN)
JUDGE

JULY 25, 2024
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