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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
% *Date of decision: 03rd September, 2024*

+ CM(M) 3312/2024 & CM APPL. 50844-50845/2024

SHRI SANATAN DHARAM MANDIR TRUST (REGD.)

.....Petitioner

Through: Mr. Arun Maitri with Ms. Radhika
Chandralekha, Advocates.

versus

RISHI WALIA

.....Respondent

Through: None

CORAM:

HON'BLE MR. JUSTICE MANOJ JAIN

J U D G M E N T (oral)

1. Petitioner Trust had filed an eviction petition with respect to the one shop and eviction order was passed by the learned Rent Controller on 30.09.2013.
2. Pursuant thereto, an execution petition was filed by the Trust/Decree Holder which was registered as Ex.Civil 507/2022.
3. It was being pursued by the Trust when on 12.05.2023, a new counsel, appeared from the side of the Decree Holder and one application was also submitted under Order I Rule 10 CPC. Such application was allowed whereby one Mr. Ravi Bajaj, stated to be the General Secretary of the Decree Holder Trust, was impleaded as party. On 05.01.2024, an application was moved seeking preponement in the date of hearing and said Sh. Bajaj made a statement before the



learned Executing Court that the matter had been amicably compromised and he may be permitted to withdraw the same.

4. Resultantly, the execution petition was disposed as settled/satisfied.

5. Said order has been challenged by the Decree Holder Trust on the ground that a fraud has been played upon the Court as such Sh. Ravi Bajaj was neither General Secretary of the Trust nor was even authorized to pursue the execution in question on behalf of the Trust.

6. It is also contended that the Decree Holder Trust had never authorized any counsel with the name of Sh. Sanjay Barolia and, therefore, apparently, it seems to be a case where on account of some collusion between the parties i.e. said Sh. Bajaj and the Judgment Debtor, a false statement has been made to defeat the rights and interest of the Decree Holder.

7. Evidently, the allegations are quite grave and serious in nature but fact remains that it is not clear as to why the Decree Holder Trust did not move any application before the learned Executing Court itself seeking recall of the abovesaid order and to revive the execution petition.

8. After hearing arguments for some time, learned counsel for the petitioner states that he does not press the present petition. He, however, seeks liberty to file appropriate application before the



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learned Executing Court seeking recall of the abovesaid order and to revive the execution petition.

9. In view of the above, the present petition is disposed of as withdrawn while reserving all the rights and contentions of the parties. The petitioner would be at liberty to move appropriate application seeking recall of the abovesaid order and seeking revival of its execution petition and learned Executing Court would consider the same, hear all concerned and dispose that of in accordance with law.

(MANOJ JAIN)
JUDGE

SEPTEMBER 03, 2024
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