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

% **Date of decision: 3rd September, 2024**

+ **CONT.CAS(C) 1386/2024, CM APPL. 50791/2024**

DEVI LAL GARGPetitioner

Through: **Mr. Praveen Suri and Mr. Akhil Kumar, Advocates.**

versus

BALDEV SINGHRespondent

Through: **None.**

CORAM:

HON'BLE MR. JUSTICE DHARMESH SHARMA

DHARMESH SHARMA, J. (ORAL)

CM APPL. 50790/2024 – EXMP.

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

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3. The petitioner is seeking initiation of contempt proceedings against the respondent/contemnor in terms of Section 2(B) and Sections 10 and 11 of the Contempt of Courts Act, 1971 read with Article 215 of the Constitution of India for willful disobedience of judgment and decree dated 07.05.2024 passed in CS DJ 613600/2016 titled as 'Devi Lal Garg v. Baldev Singh' passed by the learned District Judge-10, Central District, Tis Hazari Courts, Delhi (hereinafter referred as the '**learned District Judge**').
4. No one is present for the respondent despite notice.



5. Learned counsel for the petitioner submits that the learned District Judge *vide* aforesaid judgment dated 07.05.2024 partly decreed the suit of the petitioner for specific performance against the defendant in respect of Agreement to Sell dated 10.05.2005 with respect to the subject property on payment of balance sale consideration of Rs. 48,000/- within 90 days of the date of judgment.

6. It is the grievance of the petitioner that the respondent has failed to execute the Sale Deed with respect to the subject property in favour of the petitioner and has not handed over the vacant and peaceful possession of the subject property to the petitioner within 30 days of making payment of the balance amount despite service of a legal notice dated 17.08.2024. Hence, the petitioner is seeking proposed action.

7. On being questioned as to how this contempt petition is maintainable since the judgment and decree dated 07.05.2025 is executable in nature, learned counsel for the petitioner has relied upon the decisions in **Rama Narang v. Ramesh Narang**¹; **Raj Pal Yadav v. Murli Projects Pvt. Ltd.**²; **P.D. v. U.W.**³; and **Ved Prakash Abbot v. Koshore K. Avarsekar**⁴.

ANALYSIS & DECISION:

8. Having heard the learned counsel for the petitioner, this Court finds that although the contempt petition may be maintainable, the Court, for just and sufficient grounds, can refuse to exercise such

¹ (2006) 11 SCC 114

² 2016 SCC OnLine Del 3598

³ 2019 SCC OnLine Del 8908

⁴ 2019 SCC OnLine Del 9570



jurisdiction. The decree passed by civil court is clearly executable in accordance with law. It is well settled that contempt jurisdiction can only be invoked sparingly and in exceptional cases where the conduct of the respondent/contemnor is contumacious, depraved or unconscionable. It is not the law that for each and every breach of an order or direction passed by the Court, contempt jurisdiction should be invoked.

9. The case laws cited by the learned counsel for the petitioner are clearly distinguishable. It is well settled that no decision or proposition of law laid down by the Supreme Court or for that matter by this Court can be read *de hors* the context or the factual background of the matter which led to such pronouncements.

10. In so far as the decision in the case of **Rama Narang v. Ramesh Narang & Anr**⁵ is concerned, which is relied upon by the learned counsel for the petitioner/decreed holder, it was a case 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 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 the contempt jurisdiction. It was reiterated



that normally, the parties should resort to execution of a decree or implementation of an order, which is the effective alternate remedy in law.

11. This Court may also invite reference to a decision in the case of **R.N. Dey & Ors. v. Bhagyabati Pramanik & Ors.**⁶, 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. ...”

12. 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.”

13. Avoiding a long academic discussion, we may refer to another decision in **Soorajmull Nagarmull v. Brijesh Mehrotra & Ors.**⁷ 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 and good conscience, the parties should resort to seeking remedy under the same instead of enlarging the scope

⁵ (2006) 11 SCC 114

⁶ (2000) 4 SCC 400

⁷ 2021 SCC Online SC 1252



of the directions by bringing contempt petitions.

14. Insofar as the decision in the case of *Raj Pal Yadav (supra)* is concerned, it was a case where the contemnor/judgment debtor had been found guilty of committing repeated violation of the undertaking given to the Court. It was found by the Court that the contemnor/judgment debtor was a man of financial means and had been taking the entire justice system for a ride and it was in such circumstances that initiation of contempt proceedings and his punishment for simple imprisonment for 10 days was upheld. As regards the decision in cited case *P.D. v. U.W. (supra)*, it was a case where the petitioner-wife was granted an *ex parte* injunction by the Court thereby restraining the respondent-husband from proceeding with the matrimonial case filed by him before the superior Court of New Jersey, United States of America. The respondent/contemnor-husband nonetheless proceeded before the foreign Court despite due notice of the injunction order. It was found to be a case of exceptional circumstances where the respondent, who was an Indian citizen, had wilfully disobeyed the directions of this Court, and therefore, his objections with regard to maintainability of the contempt petition against him were rejected.

15. Faced with the aforesaid situation, after wasting much time of this Court, learned counsel for the petitioner requests permission to withdraw the present petition.

16. Allowing such request of the learned counsel for the petitioner, the present contempt petition is dismissed as withdrawn, however, with costs of Rs. 10,000/- which shall be deposited with Delhi High



Court Legal Services Authority within a month from today, failing which appropriate proceedings shall be initiated against the petitioner for recovery.

17. The pending application also stands disposed of.

DHARMESH SHARMA, J.

SEPTEMBER 03, 2024

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Signature Not Verified

Digitally Signed By PRAKASH KUMAR VATS
Signing Date: 04.09.2024 18:12:38

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