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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **CM(M) 3401/2024**
SHARAD AGGARWALAPetitioner
Through: Mr. Kunal Madan and Ms. Prachi Babra, Advocates.

versus

SHARDA BUBNA & ANR.Respondents
Through: None.

CORAM:
HON'BLE MR. JUSTICE MANOJ JAIN

ORDER

% **17.09.2024**

CM APPL. 54080/2024 & CM APPL. 54079/2024 (Exemption)

Exemption allowed, subject to all just exceptions.

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1. Petitioner herein is one of the decree-holder.
2. The decree was passed on 3rd May, 2016 in a suit for partition.
3. In terms of the aforesaid decree, an execution petition i.e. Ex. No.6022/2018 was filed.
4. However, on 12th March, 2021, it was submitted on behalf of the counsel for the decree-holder that decree-holder was ready to take “symbolic possession” and would take his legal remedy for recovery of “actual physical possession” of the suit property from the occupants. The execution petition was accordingly disposed of.
5. However, thereafter the decree-holder moved an application seeking restoration of the execution petition on the ground that the abovesaid statement had been made under some mistaken advice as there is no other

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legal remedy for getting the physical possession except by pursuing the execution petition.

6. The prayer in the preset petition is limited to the effect that the learned Executing Court may be requested to expeditiously dispose of such restoration application.

7. It is informed that notice has already been issued and the next date before the learned Executing Court is 13th November, 2024. It is also informed that the petitioner is one of the legal representative and is a blind person suffering from acute ailments.

8. There is no appearance from the side of the respondents despite advance notice.

9. Keeping in mind the overall facts and circumstances of the case, the present petition is disposed of with request to the learned Trial Court to consider the abovesaid “application seeking restoration” as expeditiously as possible, preferably within three months from the next date fixed before the learned Trial Court.

10. Learned Trial Court would, however, also ensure that the other side is also duly served and heard before disposal of such application.

MANOJ JAIN, J

SEPTEMBER 17, 2024/ss