



\$~88

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
% **Date of Decision: 19th May, 2025**

+ EX.F.A. 1/2025

HARKESH BHARDWAJ & ANR.

.....Appellants

Through: Mr. Syed Hasan Isafahni, Advocate
(through V.C.)

versus

KRISHNA NAND

.....Respondent

Through: Ms. Kritika Gupta, Advocate.

CORAM:

HON'BLE MR. JUSTICE MANOJ JAIN

J U D G M E N T (oral)

EX.F.A. 1/2025 & CM APPL. 30340/2025 (stay), CM APPL. 30341/2025 (exemption)

1. Appellants herein are defending an Execution Petition.
2. During execution proceedings, the learned Trial Court *vide* order dated 29.11.2024 has directed issuance of *warrants of arrest* against Judgment Debtor Sh. Harkesh Bhardwaj.
3. Such order is under challenge.
4. The present petition was earlier taken up by this Court on 15.01.2025 when notice was issued. However, while issuing notice, this Court also directed stay of the entire execution proceedings.
5. It is in the abovesaid backdrop that an application has now been moved by Decree Holder praying therein that such stay may be vacated.
6. Learned counsel for the Decree Holder submits that assuming, without admitting, the *warrants of arrest* were not issued, without adhering to the relevant statutory provisions, the entire execution proceedings should not have been stayed.
7. Learned counsel for the appellants has joined the proceedings through



video conferencing on advance notice and reiterates that he would be satisfied if the *warrants of arrest* are recalled. He also submits that he is ready to join execution proceedings and would render requisite assistance to the learned Executing Court.

8. This Court is conscious of relevant statutory provisions, in particular, to Section 51 and Rule 37 and 40 of Order XXI CPC.

9. Reference be also made to *CELL Page Communication Vs Vijay Shankar Pandey: 2022 SCC OnLine Del 3421* wherein a protocol has been specified which needs to be adhered to by Executing Courts, before taking such an extreme action of directing issuance of *warrants of arrest*.

10. This Court has already, while dealing with another matter of similar nature, referred to the above protocol which needs to be followed by any such Executing Court before issuing any such extreme coercive process. Reference be made to *Vinod Kumar Sharma vs. Geeta Khurana: 2024 SCC OnLine Del 6724*.

11. Learned counsel for the Decree Holder submits that in order to ensure that there is no further delay in execution, she would have no objection if the abovesaid *warrant of arrest* is recalled. She, however, submits that during the execution proceedings, if required, she would move appropriate application in this regard and the present order should not come in the way of learned Executing Court, while deciding any such application and, if required, to issue *warrants of arrest*.

12. Learned counsel for the appellants, also, has no objection if the petition is disposed of in aforesaid terms.

13. The petition is, accordingly, disposed of with the following directions:-

(i) The impugned order, so far as it directs the issuance of *warrants*



of arrest of the Judgment Debtor Sh. Harkesh Bhardwaj, is recalled.

- (ii) Learned Executing Court would be at liberty to proceed further with the Execution Petition.
 - (iii) Decree Holder shall also be permitted to file application afresh seeking arrest of Judgment Debtor Sh. Harkesh Bhardwaj and this Court expects that as and when any such application is filed, while adhering to the specific provisions of CPC, as already indicated above and the protocol delineated in *M/s Cell Page Communication* (supra) and *Vinod Kumar Sharma* (supra) and after giving due opportunity of hearing to both the sides, it disposes of any such application.
 - (v) Needless to say, Judgment Debtor Sh. Harkesh Bhardwaj shall render best assistance and cooperation to the learned Executing Court as, even otherwise, in terms of the specific directions contained in *Rahul S. Shah v. Jinendra Kumar Gandhi*, (2021) 6 SCC 418 and *Periyammal v. V. Rajamani*, 2025 SCC OnLine SC 507, Execution Petition has to be fast-tracked and has to be disposed of within six months.
- 14. The petition stands disposed of in aforesaid terms.
 - 15. Pending applications also stand disposed of in aforesaid terms.
 - 16. The next date of 24.09.2025 stands cancelled.

(MANOJ JAIN)
JUDGE

MAY 19, 2025/st/js