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

+ **CM(M) 431/2025**

SMT. KUSUM LATA

.....Petitioner

Through: Mr. Anunaya Mehta, Mr. Vidhan
Malik & Ms Kunika Champawat,
Advs

versus

SH. KAPIL

.....Respondent

Through: Mr. N. K. Sharma, Adv

CORAM:

HON'BLE MR. JUSTICE RAVINDER DUDEJA

ORDER

% **04.03.2025**

CM APPL. 13085/2025 & CM APPL. 13086/2025 (Exemption)

Allowed, subject to all just exceptions.

Both the applications stand disposed of.

CM(M) 431/2025 & CM APPL. 13084/2025 (Interim Relief)

1. The petition under Article 227 of the Constitution of India challenges the order dated 13.02.2025 passed by learned District Judge-02 (South District) Saket Court, New Delhi, in *MCA DJ No. 69/24* titled as "*Kusum Lata vs. Kapil*".
2. The respondent filed a suit for mandatory, permanent injunction and mesne profit before the learned Civil Judge.
3. Vide order dated 09.09.2024, the learned Trial Court passed a decree of mandatory and permanent injunction in favour of the respondent.
4. The petitioner preferred an appeal against the said order alongwith a stay application (MCA DJ 69/2024).
5. Learned counsel for the petitioner submits that the petitioner pressed



for a stay before the Appellate Court. However, instead of disposing the stay application, the Court fixed the matter for final disposal of the appeal on 12.03.2025 without passing any order on the stay application.

6. Learned counsel for petitioner further submits that in the meanwhile, the respondents have filed the Execution Petition No. 306/2024 before the Execution Court and the Executing Court has issued the warrants of possession, returnable for 06.03.2025.

7. The apprehension of the petitioner is that in case the stay application is not decided by the learned Appellate Court, the appeal may become infructuous.

8. Mr. N. K. Sharma, learned counsel for the respondents submits that there is no merit in the appeal and therefore, there is no ground for grant of stay and due to this reason the learned Trial Court had listed the matter for final disposal of appeal.

9. Since the execution is already pending and warrants of possession have already been issued, while the matter is listed for final judgment/orders on the appeal on 12.03.2025, I deem it opposite to grant liberty to the petitioner to file an application before the First Appellate Court for taking up the stay application on priority and make an endeavour to dispose of the application before the date fixed before the Execution Court. The petition is disposed of in terms of the above order.

10. Copy of this order be given *dasti* to learned counsel for the petitioner under the signatures of Court Master.

RAVINDER DUDEJA, J

MARCH 4, 2025/Sk/ia