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IN THE HIGH COURT OF DELHI AT NEW DELHI

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EX.S.A. 3/2023 & CM APPL. 27329/2023

YOGITA GOYAL

.....Appellant

Through: Mr. Siddharth Aggarwal and
Mr. Gaurav Sindhwani, Advocates

versus

RAKESH KUMAR AGGARWAL & ORS.

.....Respondents

Through: Mr. Ajay Bansal, Ms. Veena Bansal,
Mr. Gaurav Yadava, Mr. Sourav
Jindal and Ms. Devaki Dass,
Advocates
Mr. Anil Goel and Mr. Aditya Goel,
Advocates for R-2 and 3

CORAM:

HON'BLE MR. JUSTICE DINESH KUMAR SHARMA

ORDER

30.01.2025

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1. The present petition has been filed challenging the order dated 03.05.2023 passed in MCA DJ no. 9/2020 whereby the learned Additional District Judge-03, North West District, Rohini Courts, Delhi, set aside the order dated 24.02.2020 vide which the learned CJ dismissed the execution in the case titled as *Rakesh Kumar Aggarwal vs. Ashok Goyal & Ors.* and allowed the objections being filed by the appellant.
2. Initially, a civil suit no. 345/2013 titled as *Rakesh Aggarwal vs. Ashok Goyal* was filed for mandatory and permanent injunction. In brief, the relief claimed was that the defendant had installed AC in the driveway, which was causing obstruction and hindrance in parking of the car. It was prayed that the defendant directed to remove the old



AC body from the said driveway and keep the driveway clear from all kinds of obstructions and hindrances. During the proceedings, Mr. Ashok Aggarwal informed that the owner of the premises is Mrs. Sangeeta Goyal, on which she was impleaded as a party.

3. Learned Trial Court vide order dated 03.05.2023 passed a detailed order directing defendants to remove the AC fixed by them on the ground floor/window of the basement of property bearing no. A-5, Ashok Vihar Phase II, Delhi, as depicted in photographs Annexure 3 and Annexure 4 of the report of the Local Commissioner dated 27.01.2014.
4. Pursuant to this, an execution petition was filed by respondent No. 1. In that execution petition, the objections were filed by the present appellant. The court of learned Civil Judge, North-West District, Rohini Court, Delhi, in execution petition no. 176/2018 rightly *inter alia* held that since the appellant was not a party to the suit, the decree passed against the respondent nos. 2 and 3 cannot be executed against her. The learned Civil Judge had passed a detailed and reasoned order against which an appeal was filed.
5. Learned ADJ-03, South-West District, Rohini Courts, Delhi vide order dated 03.05.2023 went entirely on a different footing and set aside the order of the learned Civil Judge on the ground that the appellant and respondent nos. 2 and 3 are closely related to each other and the litigation was being contested by them in connivance with each other.
6. The cardinal issues that require consideration in the present matter are that at the time of passing of the decree in the original suit, the



appellant was not impleaded as a party to the proceedings, therefore can the decree be executed against the non-party.

7. It would be apposite to first refer to the relevant statutes that govern the enforceability of injunction decrees. The enforceability of injunction decrees is governed by a comprehensive legal framework established under the Code of Civil Procedure, 1908, and the Specific Relief Act, 1963. Law prescribes the procedural mechanism for executing injunctive decrees, inherently limiting their application to original parties.
8. The Specific Relief Act delineates the scope and limitations of injunctive reliefs. Therefore, ideally, a decree cannot be executed against an individual who was not a party to the original suit. However, there are exceptions where non-parties may become subject to a decree's execution, particularly if they are deemed representatives or have acquired interest in the subject matter after the decree. It is settled position of law that the execution court's jurisdiction is inherently limited to enforcing the decree against parties who were afforded an opportunity of hearing in the original proceedings. Furthermore, it is a settled law that any party against whom enforcement is sought and that party was not a party in original suit has a recourse of filing objections before the executing court. In the present case, the appellant herself filed the objections before the executing court and the Ld. Civil Judge, after taking into consideration the objections filed by the appellant, allowed the objections of the appellant and dismissed the execution proceedings vide judgment dated 24.02.2020.



9. In the present case, the appellant holds title and ownership rights over the suit property/floor in question, a fact that stands uncontroverted by the respondents. Further, it is an admitted position that the appellant was not impleaded as a party in the original suit that culminated in the injunctive decree. Consequently, seeking its enforcement against the Appellant through execution proceedings is legally impermissible other than exceptions. The execution court cannot be permitted to travel beyond the four corners of the decree to affect the rights of individuals who were strangers to the litigation and instead, under Order 21, Rule 97 of the Code of Civil Procedure, the executing court has the authority to adjudicate upon the rights of individuals resisting execution, even if they were not parties to the original decree or the non-party can file objections before the executing court. This court has gone through the judgment of the Ld. Civil Judge dated 24.02.2020, and finds that Ld. Judge has rightly allowed the objections of the appellant and dismissed the execution proceedings.
10. Consequently, this Court finds merit in the petition. The impugned order dated 03.05.2023 passed by the learned Additional District Judge-03, North West District, Rohini Courts, Delhi, is hereby set aside. The petition stands allowed and is disposed of accordingly.

DINESH KUMAR SHARMA, J

JANUARY 30, 2025

N/HT