



\$~68

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

% ***Date of Decision: 14th May, 2025***

+ **EX.F.A. 13/2025 & CM APPL. 29163-29164/2025**

MUKESH KUMAR

.....Appellant

Through: Ms. Simran, Ms. Sakshi, Advs.

versus

ARCHANA SURJAN

.....Respondent

Through: None.

CORAM:

HON'BLE MR. JUSTICE MANOJ JAIN

J U D G M E N T (oral)

1. Petitioner herein has suffered an *ex-parte decree*.
2. Decree Holder (respondent herein) filed an execution petition which was registered as Execution No. 47/2023.
3. The defendant/Judgment Debtor, however, filed an objection petition. When such objection petition was taken up by the learned Executing Court on 26.04.2024, issues were framed and the matter was fixed for recording of evidence by the judgment debtor.
4. The impugned order dated 25.04.2025 would indicate that no evidence-affidavit was filed by the Judgment Debtor and on previous occasion also, the Judgment Debtor had been granted *last and final opportunity to lead evidence, failing which he would forfeit his right to lead evidence*.
5. Since on 25.04.2025 also, the Judgment Debtor sought adjournment,



the learned Trial Court, finding that there was no reason to adjourn the matter, closed the opportunity of the objector to lead his evidence.

6. Simultaneously, since the Judgment Debtor had failed to lead its evidence, the objection petition was also dismissed and there was a direction for appointment of Bailiff for the purposes of executing *warrant of attachment* of movable goods of the Judgment Debtor. It is informed that the Bailiff has already been appointed and, in all probability, such warrant would be executed today itself.

7. Fact, however, remains is that there is no illegality or perversity in the impugned order.

8. Reference be also made to *Rahul S. Shah v. Jinendra Kumar Gandhi*, (2021) 6 SCC 418 and *Periyammal v. V. Rajamani*, 2025 SCC OnLine SC 507 whereby Hon'ble Supreme Court has directed all the Courts to decide execution petitions as expeditiously as possible ideally within six months

9. Keeping in mind the abovesaid specific directions coming from the Hon'ble Supreme Court, obviously, the endeavour of the Executing Court is to ensure that there is no unwarranted delay in execution. The Judgment Debtor himself is responsible for his miseries as despite being granted repeated indulgence, for the reasons best known to him, he did not choose to lead any evidence in defence.

10. This Court is also conscious of the limited scope of judicial interference while entertaining any petition under Article 227 of the Constitution of India, the same can be invoked only when there is some illegality or perversity in the order impugned. In the present case, there is no such illegality or perversity in the order impugned. On the contrary, since the Judgment Debtor did not submit any evidence, the learned Executing Court



was left with no option but to close his right to lead evidence and, consequently, to dismiss the objection petition.

11. In view of the above, this Court does not find any reason to interfere with the impugned order.

12. Petition is accordingly dismissed.

13. Pending applications also stands disposed of.

14. Learned counsel for the petitioner submits that, at least, the judgment debtor may be given an opportunity to move appropriate application before the learned Executing Court, seeking recall of the abovesaid order and to grant one last and final opportunity to lead evidence.

15. Needless to say, if permissible under law, the petitioner would be at liberty to move any such application before the learned Executing Court, the learned Executing Court shall consider the same and dispose of the same, without being prejudiced by any of the observations made hereinabove.

(MANOJ JAIN)
JUDGE

MAY 14, 2025/n