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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ RSA 162/2022 & CM APPL. 54735/2022 CM APPL. 59480/2025
CM APPL. 79671/2025

LAXMI CHAND @ LALIT SINGH

.....Appellant

Through: Mr. Soumitra Chatterjee and Ms.
Sriparna Chatterjee, Advocates.

versus

PRABHDIT ASSOCIATES PRIVATE LIMITEDRespondent

Through: Mr. Rajeev Saxena, Sr. Advocate
with Mr. Puneet Bhatnagar, Mr.
Mohit Batra, Ms. Richa S. Bhatnagar,
Ms. Megha Saxena, Ms. Shreya
Bhatnagar and Mr. Satya Prakash
Saini, Advocates.

CORAM:

HON'BLE MR. JUSTICE ANUP JAIRAM BHAMBHANI

ORDER

17.12.2025

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By way of the present regular second appeal filed under section 41 of the Punjab Courts Act 1918, read with section 100, Order XLI and section 151 of the Code of Civil Procedure 1908, the appellant impugns judgment and decree dated 15.10.2022 passed by the learned Additional District Judge-08, Central District, Tis Hazari Courts, Delhi in appeal bearing RCA No.95/2020, and judgment and decree dated 23.01.2018 passed by the learned Civil Judge-05, Central District, Tis Hazari Courts, Delhi in suit bearing CS SCJ No. 598487/2016.

2. The present appeal has been pending since 2022. Questions of law have not yet been framed.
3. While hearing learned counsel for the parties on the proposed questions of law as set-out in the memo of appeal, and after a fairly detailed



hearing in the matter, it transpires that the essential points of contention between the parties are the following:

- 3.1. It is the appellant's contention that he is in use, occupation and possession of property bearing No.2788, Lothian Road, Kashmere Gate, Delhi; but the suit which was filed seeking mandatory injunction, permanent injunction, and recovery of damages by the respondent related to property bearing No.2789, Lothian Road, Kashmere Gate, Delhi.
- 3.2. Counsel submits that since service was affected on property bearing No.2789, the appellant never received summons in the suit and was proceeded *ex-parte*.
4. Be that as it may, learned counsel for the appellant submits that his stand even today is that he has no concern with property bearing No.2789, Lothian Road, Kashmere Gate, Delhi but that the impugned judgment and decree dated 23.01.2018 in relation to property bearing No.2789 *cannot be* executed against the appellant who is in possession of property bearing No.2788.
5. Counsel submits that his application under Order IX Rule 13 CPC was dismissed *vide* order dated 20.10.2020; and that subsequently, the first appeal has also been dismissed by the learned first appellate court *vide* judgment dated 15.10.2022.
6. In view of the above circumstances, and considering the limited remit of a regular second appeal under section 100 CPC, the present appeal is disposed-of, granting to the appellant the liberty to resist execution proceedings by filing an appropriate application, canvassing the point that the property being occupied by the appellant was *not* subject



matter of the suit and that the decree cannot be executed against the property that is in possession of the appellant.

7. Needless to add, that any such application that comes to be filed before the learned executing court in Ex. P. No. 1828/2018, shall be decided in accordance with law.
8. Pending applications, if any, also stand disposed-of.

ANUP JAIRAM BHAMBHANI, J

DECEMBER 17, 2025

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