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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ LPA 875/2024, CM APPL. 50818/2024, CM APPL. 50819/2024 &
CM APPL. 50820/2024

KHAGENDRA JANA & ANR.Appellants
Through: Mr.Sanjay Khanna, Ms.Pragya
Bhushan, Mr.Tarandeep Singh Sokhi
and Mr.Vilakshana Dayma, Advs
along with Appellants in person.
versus

KAMAL GARG & ANR.Respondents
Through: Ms.Ekta Choudhary, Adv for R-1

CORAM:
HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE TUSHAR RAO GEDELA

ORDER
21.08.2025

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1. Heard learned counsel for the parties.
2. Proceedings of this intra-Court appeal have been instituted questioning the order dated 06.08.2024, passed by the learned Single Judge whereby, W.P.(C) 10348/2024 has been allowed and the order under challenge therein dated 27.01.2024, passed by learned Additional Chief Metropolitan Magistrate-02 (ACMM-02), Central District, Tis Hazari Courts, Delhi in Ct. Case No.186/2024, has been quashed.
3. At this juncture itself, we may notice that by means of the order dated 27.01.2024 the ACMM-02 had stayed the order dated 04.01.2024 in respect of appointment of Receiver for taking physical possession of property bearing no.2181/62, Plot No.529/2, admeasuring 106 Sq. Yds situated at Khasra



No.1414/529, Block – J, Gali No.61 & 62, Hari Singh Nalwa Street, Naiwala, Gurudwara Road, Karol Bagh, New Delhi.

4. The sole argument raised by learned counsel for the appellant is that neither the appellants were ever issued notice of the writ petition by learned Single Judge nor were they heard when the impugned order was passed and accordingly, the order under challenge herein, is an *ex-parte* order which needs to be set aside.

5. On the other hand, learned counsel representing respondent no.1 has submitted that the appellants herein choose not to put in appearance before learned Single Judge despite having served an advance notice and accordingly, the order cannot be said to be an *ex-parte* order. Their submission is that despite service of advance notice, the appellants who are respondent no.2 and 3 in the proceedings of the writ petition before learned Single Judge, did not appear, the order challenge herein, cannot be said to be vitiated in any manner.

6. Having heard the learned counsel for the parties and perused the order passed by the learned Single Judge dated 06.08.2024 which is under challenge herein, what we find is that in paragraph no.5 of the said order learned Single Judge has recorded a finding that “*None appeared on behalf of the respondents No. 2 and 3, despite sending advance notice.*”.

7. Accordingly, it is apparent that Court Notices were never issued to the appellants (respondent no.2 and 3) in the said writ petition, and service was presumed to be sufficient only on service of advance notice, such a course, in our opinion, will vitiate the impugned order for the simple reason that neither any Court Notices were issued to the appellants nor were they accordingly heard before the impugned order was passed.



9. It is also to be noticed that it is on the proceedings instituted by the appellants under Section 340 of the Code of Civil Procedure, 1908 that the learned ACMM had passed the order restraining the appointment of Receiver, and it is this order, staying the appointment of the Receiver, which was challenge before the learned Single Judge in the proceedings of the writ petition. Thus, in this view, the appellants were not only proper but also necessary parties in the proceedings of the writ petition which has been decided *vide* the impugned order by the learned Single Judge.

10. For the reasons aforesaid, the order dated 06.08.2024, passed by the learned Single Judge in *W.P.(C) 10348/2024*, is hereby set aside and the appeal is allowed. The proceedings of *W.P.(C) 10348/2024* are restored to its original number before the learned Single Judge.

11. The writ petition shall be placed on Board before the learned Single Judge on 01.09.2025. No further notice of the proceedings of the writ petition will be required to be sent to the parties who are represented before us.

12. The parties in this appeal undertake to appear before the learned Single Judge on the next date of listing. We also request the learned Single Judge to expedite the proceedings of the writ petition and decide the same at the earliest.

13. All the pending applications stand disposed of.

DEVENDRA KUMAR UPADHYAYA, CJ

TUSHAR RAO GEDELA, J

AUGUST 21, 2025/MJ