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

+ EX.F.A. 31/2025, CM APPL. 49946/2025

KISHORE UPADHYAY ALIAS K.L. UPADHAYAY

.....Appellant

Through: Ms. Bipin Bihari Singh, Deepak
Singh, Advocates.

versus

NITIN SINGHAL & ORS. & ORS.

.....Respondents

Through: None.

CORAM:

HON'BLE MR. JUSTICE SAURABH BANERJEE

ORDER

13.08.2025

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1. By virtue of the present appeal, the appellant seeks quashing and setting aside of the order dated 31.07.2025 passed by the learned District Judge, Saket Courts, New Delhi, whereby his objection application under *Order XXI rule 58* of the Code of Civil Procedure, 1908 (**CPC**) in Execution Petition No.224/2024, arising out of the judgement and decree dated 05.03.2024 in Civil Suit No.588/2017, has been dismissed with costs of Rs.10,000/-.

2. The sum and substance of the case of the appellant, who was not a party in Civil Suit No.588/2017, is that although the property bearing no.G-40, Gaurav Apartment, Saket, New Delhi-110 017 belongs to him, however, neither he was made a party to the proceedings and it was wrongly shown in the memo of parties as the address of the judgement



debtors, one of whom is the brother of the appellant.

3. Upon coming to know of Execution Petition No.224/2024 and apprehending coercive steps against himself in relation to the property bearing no.G-40, Gaurav Apartment, Saket, New Delhi-110 017 wherein as per learned counsel for appellant his daughters reside, the appellant filed the objection application under *Order XXI rule 58* of the CPC before the learned executing Court. However, while dismissing the same on the ground that the said property had in fact never been attached, the learned executing Court has issued fresh warrants of attachment against the movable property of the judgement debtor, as also given liberty to the Bailiff to break open the locks for smooth execution of the warrant.

4. Hence, the present appeal.

5. In view of the urgent reliefs prayed for by the appellant, taking into consideration the averments made in the appeal as also the contentions raised by learned counsel for the appellant, in the interest of justice, it is clarified/ specified that in terms of the impugned order the Bailiff will be at liberty to carry out the warrants of attachment only against the movable property of judgement debtors and not against any movable property belonging to the appellant herein, however, the bailiff will be free to ask/ demand any relevant/ requisite statutory document(s) as also any other proof(s) qua such movable property from the appellant at the time of executing the warrants of attachment.

6. At this stage, learned counsel of the appellant submits that he wishes to withdraw the present appeal and instead agitate the grievances of the appellant before the appropriate forum(s) in accordance with law.

7. Allowed, with liberty as sought.



8. Needless to say, this Court has not expressed any opinion upon the merits of the case and the learned Trial Court/ Executing Court are free to proceed on its own merits in accordance with law.

SAURABH BANERJEE, J

AUGUST 13, 2025/hd