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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **CONT.CAS(C) 1507/2025, CM APPL. 63462/2025 & CM**
APPL. 63463/2025

VIJAY KUMAR AGARWAL

.....Petitioner

Through:
versus

MS. BHAWANI SHARMA, JOINT REGISTRAR (JUDICIAL) AND
ANOTHER

.....Respondents

Through:

CORAM:
HON'BLE MR. JUSTICE AMIT SHARMA

ORDER

% **09.10.2025**

1. This hearing has been done through hybrid mode.
2. The petition under Article 215 of the Constitution of India read with Sections 2(b), 10, 12 and 16 of the Contempt of Courts Act, 1971 seeks the following prayers: -

“1. Initiate appropriate proceedings under the Contempt of Courts Act, 1971 against the Respondents for wilful disobedience of binding law declared by the Hon'ble Supreme Court and consequent violation of Article 141 of the Constitution of India through Orders dated 15.5.2024 and 18.7.2025 in CM (M) No. 1881 of 2023;

2. Recall and quash the illegal directions dated 15.05.2024 and 18.07.2025 to the extent they impose and enforce costs payable to a non-party in contravention of Supreme Court rulings;

3. Declare that such costs orders are nullities in law and unenforceable;

4. Pass such other order(s) as this Hon'ble Court may deem fit in the interest of justice and institutional integrity.”



3. *Vide* order dated 15.05.2024 passed by the learned Coordinate Bench of this Court in CM(M) 1881/2023 and CM APPL. 9734/2024 had passed the following order: -

“CM APPL. 3465/2024

This application already stands allowed vide order dated 19.01.2024 and the Registry is directed to take note and not show the same as pending.

CM APPL. 6409/2024 (For Exemption)

Allowed, subject to all just exceptions. Accordingly, the present application stands disposed of.

CM APPL. 6410/2024 (For Exemption)

1. This application has been filed seeking exemption from filing affidavits duly attested by the Oath Commissioner.
2. A Division Bench of this Court in **Mrs. Jamna Datwan v. Delhi High Court and Ors.**¹ declined to interfere in the office order dated 28.08.2020 issued by Registrar General of this Court making it mandatory to file petitions with affidavit duly attested by Oath Commissioner. Therefore, exemption as prayed for cannot be granted to the Petitioner.
3. The Petitioner is directed to ensure that the attested affidavit is filed within a period of two weeks on or before 29.05.2024, failing which, the Petitioner become liable to pay costs of Rs. 5,000/- to be deposited with Delhi High Court Staff Welfare Fund [Account No. 15530110074442, IFSC Code: - UCBA0001553, Branch: - Delhi High Court].
4. The Registry to list the matter before the Joint Registrar for verifying compliance on 30.05.2024.

6494/2024 (For Condonation of Delay)

5. The present application filed for seeking the condonation of delay in filing the review petition.
6. For the reasons stated in the application, the delay is condoned.

¹ 1 Order dated 20.10.2020 in W.P.(C) 7379/2019



CM APPL. 9735/2024 (For Exemption)

7. This application seeks similar relief as prayed for in CM APPL. 6410/2024. The prayer for exemption is not maintainable.

8. The Petitioner is similarly directed to ensure that the attested affidavit is filed within a period of two weeks on or before 29.05.2024, failing which, the Petitioner become liable to pay costs of Rs. 5,000/- to be deposited with Delhi High Court Staff Welfare Fund [Account No. 15530110074442, IFSC Code: - UCBA0001553, Branch: - Delhi High Court].

9. The Registry to list the matter before the Joint Registrar for verifying compliance on 30.05.2024.

REVIEW PET. 37/2024

10. The present review petition has been filed by the Petitioner seeking review of the order 23.11.2023 passed by this Court dismissing the CM(M)No. 1881/2023. The said petition was filed by the Petitioner under Article 227 of the Constitution of India challenging the impugned order dated 11.03.2020 passed by the ADJ-02, Central District, Tis Hazari Courts, Delhi ('Trial Court') in Misc. DJ No. 119/2020 (1st order) and order dated 18.08.2023 passed by the Trial Court in Misc. DJ No. 174/2021 (2nd order).

11. The Petitioner states that the judgment and decree dated 25.10.2008 passed in the Civil Suit No. 37/2008 by the Trial Court was a nullity. He states that the grounds of nullity are that the suit was filed by the Respondent for injunction only on the basis of an unregistered, Agreement to Sell dated 15.07.1985 ('unregistered ATS'). He states that since it is a settled law that an unregistered ATS is inadmissible in law, no suit for injunction could have been maintained.

11.1. He states that in addition, the ATS is alleged to have been executed by one Mr. Ulfat in favour of one Mr. Jitan and thus, the said ATS does not transfer any right or title in favour of the Respondent herein. He states that even the Trial Court in the judgment and decree dated 25.10.2008 observed that there is an inherent defect in the alleged title of the Respondent. He states that therefore, a suit for injunction could not have been maintained by the Respondent. He states that by placing reliance on this ATS, the Respondent has approached the Court with unclean hands. He states that in the plaint, the Respondent made a false assertion that the ATS and GPA are registered. He states that however, no proof of the alleged registration was led before the Trial Court.



11.2. He states that on 12.07.2005, the said Mr. Ulfat denied execution of documents (GPA, Agreement and Receipt) dated 17.11.1978 in a separate proceeding; however, the said statement of Mr. Ulfat was not considered by the Trial Court while passing the judgment and decree dated 25.10.2008.

11.3. He states that since the suit itself was not maintainable, all subsequent proceedings in the suit are inconsequential and therefore, the orders of the Trial Court impugned in this petition cannot be sustained. He states that however, the order dated 23.11.2023, under review passed by this Court is completely oblivious of the aforesaid submissions and pleas. He states that therefore, it is apparent that this Court has lost the wood for the trees.

12. This Court has heard the Petitioner's arguments and perused the written submissions and additional written submissions filed in support of the review petition.

13. As is evident from the submissions from the Petitioner noted hereinabove, the Petitioner has sought to raise a challenge to the judgment and decree dated 25.10.2008. However, the said judgment and decree was not a subject matter of the writ petition. In the writ petition, the challenge was made to the orders dated 11.03.2020 and 18.08.2023. The correctness of the said orders has been examined and upheld by this Court in its final order dated 23.11.2023, which is under review.

14. The review Petitioner has failed to point out any error apparent on the face of record in the reasons recorded in the final order dated 23.11.2023.

15. The contention of the Petitioner that the orders dated 11.03.2020 and 18.08.2023 passed by the Trial Court are a nullity as the suit itself was not maintainable is untenable in law. The orders passed by the Trial Court on 11.03.2020 and 18.08.2023 were within the jurisdiction of the Trial Court and had been passed by the said Court on the applications filed by the Petitioner herein invoking the jurisdiction of the Trial Court.

16. Though, the language used by the Petitioner in its pleadings for urgent grounds seeking review of this Court's order dated 23.11.2023 is inappropriate, considering that the Petitioner is appearing in person, this Court is refraining from initiating steps against the Petitioner for the improper use of words in the grounds.

17. It is recorded by the Trial Court in its order dated 18.08.2023 that no appeal has been filed by the Petitioner herein against the



judgment and decree dated 25.10.2008. The challenge to the said decree on the grounds alleged would have to be maintained by the Appellant in the appropriate forum. It is made clear that this Court has not examined or opined upon the judgment and decree dated 25.10.2008 as the same does not arise for consideration in these proceedings.

18. In view of the above, the present review petition is without any merits and the same is dismissed. Pending applications stand disposed of.”

4. Subsequently, learned Joint Registrar (Judicial) passed the following order in CM(M) 1881/2023 on 18.07.2025:-

“File is placed before this Court vide order dated 15.05.2024 for verifying the compliance.

Matter is pending for filing the original affidavit.

As per office note, original affidavit has not been filed.

Let Court notice be issued to the petitioner and to the counsel for petitioner to deposit the costs of Rs. 5,000/- to be deposited with Delhi High Court Staff Welfare Fund.

Renotify on 04.11.2025.”

5. Petitioner who appears in-person through video conferencing submits that the aforesaid imposition of cost is contrary to the judgments of the Hon’ble Supreme Court. He relies on the judgment of Hon’ble Supreme Court in **Ashok Kumar Mittal v. Ram Kumar Gupta & Anr, (2009) 2 SCC 656**, particularly on the following paragraphs: -

“6. Under section 35 of the Code, award of costs is discretionary but subject to the conditions and limitations as may be prescribed and the provisions of any law for the time being in force. Under section 35A, compensatory costs for vexatious claims and defences may not exceed to Rs.3,000/-. Further the primary object of levying costs under sections 35 and 35A CPC is to recompense a litigant for the expense incurred by him in litigation to vindicate or defend his right. It is therefore payable by a losing litigant to his successful opponent. When an appellant or a plaintiff has already paid the



prescribed court fee in regard to the appeal or suit to the state at the time of institution, it is debatable whether any costs can be awarded to the state by way of penalty, in a litigation between two private parties. Courts will have to act with care while opening new frontiers.

7. One view has been that the provisions of sections 35 and 35A CPC do not in any way affect the wide discretion vested in by High Court in exercise of its inherent power to award costs in the interests of justice in appropriate civil cases. The more sound view however is that though award of costs is within the discretion of the court, it is subject to such conditions and limitations as may be prescribed and subject to the provisions of any law for the time being in force; and where the issue is governed and regulated by sections 35 and 35A of the Code, there is no question of exercising inherent power contrary to the specific provisions of the Code.

8. Further, the provisions of section 35A seems to suggest that even where a suit or litigation is vexatious, the outer limit of exemplary costs that can be awarded, in addition to regular costs, shall not exceed Rs.3000/-. It is also to be noted that huge costs of the order of Rs. Fifty thousand or Rs. One lakh, are normally awarded only in writ proceedings and public interest litigations, and not in civil litigation to which sections 35 and 35A are applicable. The principles and practices relating to levy of costs in administrative law matters cannot be imported mechanically in relation to civil litigation governed by the Code.

10. We do not however propose to examine or decide the above issues here, except to observe that courts should not exceed or overlook the limitations placed by the Code with reference to costs in civil litigation. Insofar this case is concerned, even though the order relating to costs may not strictly be correct, we do not propose to interfere with the same, in exercise of our jurisdiction under Article 136, as the order has not resulted in any injustice. It is stated that the respondents have already deposited the costs. The time for deposit of costs by the petitioner is extended at his request by a month from today.



12. The second aspect relates to the recipient of the costs. In para 38 of the impugned judgment, the High Court specifically stated that it had decided to saddle the parties with heavy costs to be paid to the state which spends money on judicial infrastructure. Having said so, in para 39, the High Court directed that the costs should be paid to the Delhi High Court Legal Services Committee. The High Court Legal Services Committee, a statutory authority under the Legal Services Authorities Act, 1987, is not the “State” that spends money on providing judicial infrastructure, referred in the earlier para. Once the Court held that costs had to be paid to the state, it should have directed payment of the costs to the state and not the High Court Legal Services Committee.

13. No litigant should be made to feel that heavy costs are being levied in some cases by Judges to create a corpus or expense fund for the High Court Legal Services Committee or the State Legal Services Authority. While levy of an uniform token sum, as costs payable to the Legal Service Authority/Committee by way of a deterrent fine, in regard to non-compliance with procedural requirements, delays in re-presentation of papers etc. may not be objectionable, levy of huge amounts as costs in selected cases, made payable to the Legal Service Authorities, may invite adverse comments and evoke hostility to legal services in general. We have also come across cases of costs being levied and made payable to some non-party charitable organizations. Levy of such costs should be avoided.”

6. Further, reliance is placed on judgment of Hon’ble Supreme Court in **State Of U.P. & Anr v. Nitin Agnihotiri & Anr, (2008) 8 SCC 31**, particularly on the following paragraphs: -

“8. We find that the impugned order of the High Court so far as it relates to the imposition of cost is founded on no basis. There is not even a finding recorded that the police officials were remiss in any way and/or had committed any lapse during investigation. In the absence of any reason having been indicated by the High Court as to why the Court felt necessary for imposing cost, the direction for payment of cost cannot be sustained and is set aside.



9. Before parting with the case, we would like to indicate that the courts should not impose cost in the manner done in the present case without recording any finding as to why imposition of cost was considered necessary. Unless any lapse on the part of any authority is found and opportunity is granted to the alleged erring official, cost should not be imposed. Whenever it is felt that cost is to be imposed, the reason for such a conclusion has to be recorded.”

7. Reliance is also placed on the judgment of Hon’ble Supreme Court in **Vinod Seth v. Devinder Bajaj & Anr, (2010) 8 SCC 1.**

8. The present petition has been filed seeking initiation of proceedings under the Contempt of Courts Act, 1971. If the petitioner is aggrieved by the imposition of cost by the learned Coordinate Bench of this Court then, he can initiate appropriate proceedings in accordance with law challenging the aforesaid order or move an appropriate application before the learned Coordinate Bench for waiving of the cost. However, this Court is of the considered opinion that the present petition under Contempt of Courts Act, 1971 is not maintainable, and therefore, the present petition is dismissed and disposed of.

9. Pending applications, if any, also stand disposed of accordingly.

10. Order be uploaded on the website of this Court *forthwith*.

AMIT SHARMA, J

OCTOBER 9, 2025/mj