



2025:DHC:10190-DB



\$~53

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

+ EFA(COMM) 20/2025 & CM APPL. 71798/2025, CM APPL.
71799/2025

AMARJEET RANA & ORS.Appellants

Through: Mr. Natwar Rai, Adv.

Versus

GULSHAN VERMA (DECEASED)

THROUGH LRS & ORS.Respondents

Through: Mr. Sudeep Kumar, Adv. with
Mr. Babul Kumar Jha, Adv.

CORAM:

HON'BLE MR. JUSTICE C. HARI SHANKAR

HON'BLE MR. JUSTICE OM PRAKASH SHUKLA

JUDGMENT (ORAL)

%

17.11.2025

C. HARI SHANKAR, J.

1. This appeal is directed against order dated 24 September 2025 passed by the learned District Judge (Commercial Court) in Execution (Comm) 292/2023¹.

2. By the impugned order, the learned Commercial Court has directed warrants of attachment to be issued in respect of the property situated at T-126, Near Sanatan Dharam Mandir, Baljeet Nagar, New Delhi-110 008², in exercise of the powers conferred by order XXI

¹ Gulshan Verma v Shanti Mahato

² "the suit property" hereinafter



2025:DHC:10190-DB



Rule 54 of the Code of Civil Procedure, 1908³.

3. The execution proceedings arose out of a money decree dated 1 September 2016 passed in favour of Gulshan Verma⁴, and against Shanti Mahato⁵. By the money decree, Shanti was required to pay an amount of ₹ 19,01,000/- to Gulshan w.e.f. 1 September 2016 till realisation, along with *pendente lite* and future interest.

4. In the execution proceedings, Gulshan, as the decree holder, submitted that Shanti had failed to comply with decree and that an amount of ₹ 35 lakhs was outstanding.

5. In the interregnum, Shanti had also filed RFA(COMM) 197/2023 before this Court, challenging the decree dated 1 September 2016, which came to be dismissed.

6. The matter was apparently not carried further. Thus, the judgment and decree dated 1 September 2016 attained finality.

7. In the execution proceedings, the Execution Court initially issued warrants of attachment of movable assets of Shanti. However, the warrants could not be executed as the assets were not available.

8. It was in these circumstances that the impugned order has come to be passed by the learned Execution Court directing warrants of

³ “CPC” hereinafter

⁴ “Gulshan” hereinafter

⁵ “Shanti” hereinafter



attachment issued in respect of the suit property.

9. Apparently after the execution of an agreement to sell in respect of the suit property with Gulshan, but before the suit was instituted by Gulshan against Shanti, Shanti handed over possession of all floors of the suit property to various occupants under General Powers of Attorney⁶, without any valid or registered documents of sale or purchase of the property. No lease deeds, rent agreement or sale agreements were executed.

10. The said occupants filed applications under Order XXI Rule 97 of the CPC objecting to the execution of the decree as it would entail their dispossession.

11. The learned Commercial Court has, by order dated 24 September 2025, rejected the said applications, holding that the documents under which the appellants claimed to be *bona fide* purchasers in possession of the various floors of the suit property were not documents of title in view of the law laid down by the Supreme Court in *Suraj Lamp & Industries v State of Haryana*⁷. As such, as they were neither tenants nor owners of the various floors of the suit property, it was held that the appellants could not obstruct execution. Accordingly, warrants of attachment have been issued in respect of the suit property.

12. Aggrieved thereby, the appellants are before us.

⁶ “GPAs” hereinafter

⁷ AIR 2012 SC 206



13. We have heard Mr. Natwar Rai, learned Counsel for the appellants at length.

14. Learned Counsel submits that the appellants are daily-wagers – though the objection petition filed before the learned Execution Court claims that they were middle-class citizens – who have taken possession of the property *bona fide* on the basis of documents under which at that point of time sale and purchase of the property used to take place. It is specifically pleaded, in paras 3 to 6 of the objection, thus:

“3. That the applicants herein are simple middle-class family living in the said property for a long time i.e. since 2016 much before filing of the present petition. The applicants are daily wager and have purchased the said property from their hard earning. They have paid the consideration of the said property, which is unauthorized, to Mr. Ranjit Kumar Mehto and since then they are using the said property without any hinderance. They are the owner of the said property and the said property cannot be attached in the present execution as the applicants are bonafide purchaser/ user of the said property.

4. That the decree in the present execution petition is passed against the judgement debtor and not against the said property, as there was no stay order was operating on the said property.

5. That the applicants herein have filed the documents related to purchase/payment of amount to Mr. Ranjit Kumar Mahato towards occupying/using the said property is annexed herewith as Annexure P-1 to P-4 which clearly shows that the said property was occupied/used by the applicant without any hindrance much prior to the present petition. It is also important to note that there was no stay order from the Hon'ble court with regards to the said property hence the provisions of lis-pendis are not applicable in the same, hence, the said property cannot be attached in the present execution as the applicants are the legal and bonafide occupier/user of the said property.



6. That the fact with regards to the possession of the said property by the applicants was known to the decree before the proceeding before this Hon'ble Court. The decree holder was aware that the Judgement debtor has no right in the said property, but he not disclosed it to the Hon'ble Court and as thus the decree holder has concealed the material facts from this Hon'ble Court, therefore the present execution petition against the said property is not maintainable and liable to be dismissed.”

15. We empathise with the appellants as we are aware that, for a long period of time between the judgment of the Supreme Court in *Suraj Lamp* and the clarification of the legal position by the Supreme Court once again in *Shakeel Ahmed v Syed Akhlaq Hussain*⁸, there were judgments of this Court, notably of a Division Bench of this Court, in *Bharat Kumar v State*⁹, holding that the decision in *Suraj Lamp* would apply prospectively, as it was a stark reality that properties were being transacted, in Delhi, under GPAs, Wills, documents of possession, etc., without registered sale deeds. However, that position can no longer be accepted in view of the clarification of legal position in *Shakeel Ahmed* and, thereafter, even more recently in *Vinod Infra Developers Ltd v Mahaveer Lunia*¹⁰. These decisions have clearly held that there can be no transfer of title in property in the absence of a registered sale deed and no sale of property can take place under a GPA.

16. The inescapable corollary is that the appellants cannot claim to be in possession of the property under documents which confer title on them.

⁸ (2023) 20 SCC 655

⁹ 2014 SCC OnLine Del 3031

¹⁰ 2025 SCC OnLine SC 1208



2025:DHC:10190-DB



17. Inasmuch as, in their Objection Petition, the appellants pleaded ownership, the question of tenancy does not arise.

18. In that view of the matter, we find no fault with the decision of the learned Execution Court.

19. Though Mr. Natwar Rai also sought to raise certain arguments with respect to the correctness of the judgment in the suit, these are aspects which are outside the pale of an Execution Court which cannot be behind the decree. Moreover, we are hearing an appeal against an order, issuing warrants of attachment and, therefore, we cannot countenance these submissions.

20. We also note, in this context, once again, that the judgment and decree dated 1 September 2016 was actually challenged by the defendant in the suit before this Court, unsuccessfully, as a result of which the judgment and decree have attained finality.

21. Accordingly, we find no case to interfere with the impugned order passed by the learned Commercial Court.

22. Mr. Rai, however, submits that his clients are willing to propose alternate modes by which decree holder could be compensated, which would not involve dispossession of his clients from the suit property.

23. We reserve liberty with the appellants to raise any such contention, if so advised, before the learned Execution Court, which



2025:DHC:10190-DB



would deal with the said contention, if and when raised, in accordance with law.

24. Subject to the above limited caveat, this appeal is dismissed in *limine*.

C. HARI SHANKAR, J.

OM PRAKASH SHUKLA, J.

NOVEMBER 17, 2025/dsn