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IN THE HIGH COURT OF DELHI AT NEW DELHI

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C.R.P. 17/2025

SWAMI JYOTI MA MAHADEV DECEASED

THROUGH HIS LR

.....Petitioner

Through: Mr. Ashish Verma, Dr.
Atul Singh and Mr.
Saksham Thareja, Advs.

versus

PREM ANAND DECEASED THROUGH HIS

LR & ANR.

.....Respondents

Through:

CORAM:

HON'BLE MR. JUSTICE AMIT MAHAJAN

ORDER

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24.01.2025

**CM APPL. 4459/2025 (exemption from filing certified / true –
typed copies of impugned order and annexures / documents)**

1. Exemption allowed, subject to all just exceptions.
2. The application stands disposed of.

**C.R.P. 17/2025 & CM APPL. 4458/2025 (stay), CM APPL.
4460/2025 (permission to submit a detailed synopsis and list of
dates and events exceeding five pages), CM APPL. 4461/2025
(condonation of delay of 1 day in filing the present petition)**

3. By way of the present petition, the petitioner challenges the order dated 20.09.2024, passed by the learned Trial Court in Ex No. 893/2018.

4. The learned counsel for the petitioner, at the outset, submits that the petitioner would be satisfied if it is clarified that the objections would be decided in accordance with the provisions of Order XXI of the Code of Civil Procedure, 1908 (CPC).

5. He submits that all questions in regard to the right, title or interest in the property arising between the parties to proceedings in an application under Rule 97 or Rule 99 of the CPC, have to be determined independently.



6. The learned Trial Court, while disposing of the application filed by the petitioner, had held that it cannot go behind the decree and therefore, it is a contention of the petitioner that the objection would be decided with a pre-conceived notion.

7. The apprehension raised by the petitioner is without any legal basis. Undisputedly, the Executing Court cannot go beyond the decree and cannot overturn the findings given in the decree.

8. However, at the same time in a proceeding seeking execution of the decree, the Executing Court has independent power including the power to determine the question relating to right, title or interest in the property on an application filed by a party who was not a defendant in the suit. The same is determined on the basis of the provisions of Order XXI of the CPC.

9. Thus, undisputedly, the learned Trial Court while deciding the application, would be guided by the principles of the CPC.

10. In view of the above, no order is required to be passed in the present petition.

11. In view of the aforesaid, the learned counsel for the petitioner seeks liberty to withdraw the present petition with liberty to approach this Court in case any grievance remains in future.

12. The present petition is dismissed as withdrawn with the aforesaid liberty. Pending application(s) also stand disposed of.

AMIT MAHAJAN, J

JANUARY 24, 2025 / 'KDK'