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

+ CM(M) 2517/2025

SH DEVI DAYAL GUPTA (SINCE DECEASED) THROUGH LRS

.....Petitioner

Through: Mr. Vireshwar Tyagi and Mr. Chirag
Anand, Advs.

versus

SH NAFE SINGH GUPTA & ORS.

.....Respondents

Through: Mr. Kapil Gupta, Mr. Mayank Tomar
and Mr. Prateek Singh Sikarwar
Thakur, Advs. (through v/c)

CORAM:

HON'BLE MR. JUSTICE SACHIN DATTA

ORDER

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31.12.2025

CM APPL.82781/2025 (Exemption)

1. Allowed, subject to all just exceptions.
2. Application stands disposed of.

CM(M) 2517/2025 and CM APPL.82780/2025

3. The present petition has been filed by the petitioners assailing an order dated 12.12.2025 passed by the Karkardooma Court, Delhi ("Executing Court") in Execution Petition No.220/2025, titled '*Nafe Singh Gupta vs. Devi Dayal Gupta & Ors*'.
4. It is alleged that the decree of partition dated 11.11.2025, in respect of which the impugned order has been passed in the aforesaid execution proceedings, was rendered in violation of Order XXVI Rules 13 and 14 of the CPC. It is contended that the property could not have been directed to be auctioned without first appointing a Local Commissioner ('LC'), as



contemplated under Order XXVI Rule 13 CPC, and without obtaining the LC's report under Order XXVI Rule 14 CPC, *inter alia*, on the aspect of whether the property was capable of being divided by metes and bounds for the purpose of partition among the parties.

5. A perusal of the record reveals that *vide* judgment / decree dated 13.05.2025 passed by the Karkardooma Court, the concerned Court duly took note of the fact that no proposal had emanated on behalf of the petitioner herein as regards partition of the suit property by metes and bounds.

6. Considering the same, and considering that a preliminary decree had been passed as far back as on 27.11.2024, the judgment / decree dated 13.05.2025 proceeds to make the said decree dated 27.11.2024 absolute, and further directs that the property be put up for auction/ sale and the sale proceeds be divided amongst the parties in proportion to their respective shares as declared in decree dated 27.11.2024.

7. The judgment/decreed dated 13.05.2025 was passed in the presence of the petitioner herein. It appears that the petitioner did not act with due alacrity in pursuing appropriate legal remedies against the said judgement/ decree and instead approached this Court only after the impugned order came to be passed by the Executing Court.

8. It also transpires that an RFA filed by the petitioner against the judgment / decree dated 13.05.2025 has been filed, but has not even been listed for hearing.

9. Needless to say, the petitioner would be at liberty to urge its grievances in the said RFA. However, considering that the impugned order is only consequential to the judgment / decree dated 13.05.2025, and considering that no immediate recourse was taken by the petitioner against the said order, this



Court is not inclined to interfere with the Executing Court's order in these proceedings under Article 227 of the Constitution of India. The petitioner is at liberty to pursue its RFA, stated to have been filed against the judgment / decree dated 13.05.2025.

10. At this stage, learned counsel for the petitioner confines to seeking that he be given one month's time to vacate the premises in question (i.e., No. 59, Gali No.2, near MCD Primary School, Chandu Park, Krishan Nagar- Delhi -110051).

11. It is undertaken, on instructions, that the petitioner would vacate the portion of the premises occupied by him within a period of one month from today.

12. Liberty is granted to the petitioner to seek an appropriate extension of time from the concerned Executing Court.

13. It is submitted that an application for the aforesaid purpose shall be filed immediately so that the same can be taken up by the executing Court at the earliest. Let the executing Court duly consider the said request of the petitioner.

14. The petition is disposed of in above terms.

15. Order *dasti*.

**SACHIN DATTA
(VACATION JUDGE)**

DECEMBER 31, 2025/cl