



\$~57

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

+ **W.P.(C) 7350/2026 and CM APPLs. 35841-43/2026**

SUSHMA TOMAR

.....Petitioner

Through: Mr. Prabhash K. Singh with Mr. Ajeet
Yadav and Mr. Suraj, Advocates.

versus

M/S KAPCO ARTS PVT. LTD. & ANR.

.....Respondents

Through: Mr. Manmeet Singh, Advocate for
R1.
Mr. Kamal K. Pandey – Court
Auctioneer is present in person.

CORAM:

HON'BLE MR. JUSTICE PURUSHAINDR KUMAR KAURAV

ORDER

%

22.05.2026

1. The petition is for setting aside orders dated 08.07.2025 and 14.03.2026 passed by the Executing Court seized of Execution Case bearing No. EX. 64/2023. Further, the auction proceedings scheduled to be conducted on 23.05.2026 with respect to property bearing No. F-393, Street No. 7, Ganga Vihar, Delhi (**Property in question**) is sought to be stayed, till adjudication of the petitioner's objection under Order XXI Rule 58 of the Code of Civil Procedure, 1908.

2. *Vide* order dated 08.07.2025, the Executing Court had directed the issuance of warrant of attachment with respect to the property in question, whereas, *vide* order dated 14.03.2026, the same has been directed to be auctioned.



3. Though the impugned order should have been challenged in CM (Main), however, learned counsel appearing for the petitioner submits that his grievance is against the auction which is scheduled to be conducted tomorrow, and if the auction is not stayed, the petitioner would suffer irreparable loss.

4. It is submitted that the petitioner is in possession of the property in question, however, he was neither the judgment debtor nor party to the execution proceedings.

5. Learned counsel appearing for the petitioner submits that on becoming aware of the impugned judgment and decree, he filed his objection before the Executing Court which has not been decided yet. The Executing Court has adjourned the matter beyond the date of auction.

6. The petitioner, therefore, confines his relief to directing the Executing Court to decide his objection and only thereafter, to proceed with the auction. The submission seems to be reasonable. Instead of going into technicalities and in the interest of justice, the Court deems it appropriate to dispose of the instant petition with the following directions:

- (i) The auction shall remain stayed till the petitioner's objection which is pending before the Executing Court, is finally decided. Let the objection be decided within a period of four months from the date of receipt of copy of this order after affording opportunity of hearing to all the parties.
- (ii) The further course shall depend upon the adjudication of the petitioner's objection.

7. All rights and contentions of the parties are left open.

8. Pending applications also stand disposed of.

9. Copies of the order be given *dasti* to all the parties under signatures of



the Court Master.

PURUSHAINdra KUMAR KAURAV, J

MAY 22, 2026

tr