



2025:DHC:10980



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

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Date of Decision: 06.12.2025

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CM(M) 2915/2024 & CM APPL. 39035/2024

VAKEEL AHMED

.....Petitioner

Through: Mr. Naushad Ahmad Khan,
Advocate.

versus

KAMLESH GUPTA

.....Respondent

Through: Mr. Sachin Gupta and Mr. Rohit
Pradhan, Advocates.**CORAM: JUSTICE GIRISH KATHPALIA****ORDER (ORAL)**

1. This petition was filed by the judgment debtor, assailing orders dated 17.05.2022, 02.06.2023, 29.04.2024 and 31.05.2024 of the learned execution court. However, by way of order dated 15.07.2024, the petitioner/judgment debtor withdrew the challenge against order dated 02.06.2023. As such, presently, only three orders are assailed in this petition.

2. I have heard learned counsel for both sides. The only argument advanced by learned counsel for petitioner/judgment debtor is that the petitioner had already restored possession of the subject property to the present respondent/decreed holder in the month of October 2014. No other



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argument has been advanced. On the other hand, learned counsel for respondent/decreed holder supports the impugned orders and contends that the petitioner/ judgment debtor is trying to hoodwink the courts at different levels.

3. By way of order dated 17.05.2022, the learned execution court dismissed the objections of the petitioner/judgment debtor and directed issuance of warrants of possession of the subject tenanted property as well as warrants of attachment of the movable properties for recovery of the outstanding *mesne* profits. By way of order dated 29.04.2024, the learned execution court recorded the outstanding arrears to the tune of Rs.17,44,363/- and after elaborate discussion, rejecting the contention of the petitioner/judgment debtor that possession of the subject tenanted property stood handed over to the present respondent/decreed holder, directed police assistance to break open locks of the premises concerned in view of aggressive resistance raised on behalf of the petitioner/judgment debtor. By way of order dated 31.05.2024, the learned execution court by way of reasons recorded in the order allowed the application of the present respondent/decreed holder and directed issuance of arrest warrants against petitioner/judgment debtor. Hence, the present petition.

4. As mentioned above, the only argument advanced on behalf of petitioner/judgment debtor is that he had handed over possession of the subject tenanted property to the respondent/decreed holder in the month of October 2014, when admittedly the suit was pending before the trial court.



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5. In response to a specific query, learned counsel for petitioner/judgment debtor states that he has no evidence to show handing over of the possession. In response to further query, learned counsel for petitioner/judgment debtor submits that neither the trial court, which passed the decree nor the appellate court, which confirmed the decree accepted this plea of restoration of possession. In response to yet another query, learned counsel for petitioner/judgment debtor submits that he had filed second appeal also, but the same got dismissed for non-prosecution and was not sought to be restored.

6. However, learned counsel for petitioner/judgment debtor also claims at this stage, that he has filed a suit for specific performance of agreement to sell and recovery of possession of the subject property. That suit is stated to be pending and no interim orders have been passed in favour of the present petitioner/judgment debtor. At this stage, learned counsel for respondent/deGREE holder discloses that in the said suit, the present petitioner/judgment debtor, rather withdrew his application for interim injunction. On this, learned counsel for petitioner/judgment debtor submits that the interim application was withdrawn because the petitioner/judgment debtor was not ready to bear the cost of Local Commissioner and the said withdrawal was with liberty to file afresh. But despite one year having passed after that withdrawal, no fresh application has been filed.

7. It would further be significant to note that today itself, another similar petition arising out of same decree was listed. The said other petition,



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bearing no.CM(M) 446/2023 was filed by some persons claiming themselves to be the legal representatives of brother of the present petitioner and those persons assailed rejection of their objection related to identity of the subject property. Today itself, after addressing partly, learned counsel for those petitioners withdrew the petition CM(M) 446/2023.

8. The above conspectus leaves me in no doubt that the petitioner/judgment debtor is trying to somehow resist the execution of the decree by protracting the proceedings, so that the respondent/decree holder abandons the litigation in frustration.

9. I find absolutely no infirmity in any of the orders impugned in the present proceedings, so all impugned orders are upheld.

10. The present petition is not just completely devoid of merits but is absolutely frivolous and brought with *mala fide*. Therefore, the petition and the accompanying application are dismissed with costs of Rs.25,000/- which shall be paid by the petitioner/judgment debtor to the respondent/decree holder within one week.

**GIRISH KATHPALIA
(JUDGE)**

DECEMBER 06, 2025/ry