



2025:DHC:7692



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* IN THE HIGH COURT OF DELHI AT NEW DELHI

% Date of Decision: 1st, September, 2025

+ CM(M) 1675/2025 & CM APPL. 54634-54635/2025

SMT. BHAWNA MALIK

.....Petitioner

Through: Mr. Umesh Chandra Sharma, Mr. Munish Kumar Gaur, Mr. Peeyush Kaushik and Mr. Siddharth Kaushik, Advocates

versus

SH. ANAND KRISHAN DHAWAN

.....Respondent

Through: Mr. Satyam Chaturvedi, Mr. C.M. Maini, Mr. Mayank Maini, Mr. Biman Sethi and Mr. Ankit Verma, Advocates

CORAM:**HON'BLE MR. JUSTICE MANOJ JAIN****J U D G M E N T (oral)**

1. Mr. Anand Krishan Dhawan (respondent herein) had filed a suit for mandatory injunction and recovery of damages/*mesne profits* against his sister (petitioner herein).
2. Aforesaid suit resulted in decree dated 20.09.2017.
3. The grievance of the petitioner is to the effect that the aforesaid suit was earlier *dismissed-in-default* and the suit was got restored on her back and thereafter, she was proceeded against *ex parte*.
4. Fact remains that while taking the aforesaid argument, petitioner herein filed an application under Order IX Rule 13 CPC praying therein that such *ex parte* judgment and decree dated 20.09.2017 may be set aside. Her such endeavour was not successful as her application was dismissed by the



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concerned learned Trial Court on 22.10.2024.

5. Feeling aggrieved, she has already filed an appeal (RCA DJ 7/2025) which pending adjudication.

6. Fact, however, remains that petitioner, feeling aggrieved with the manner in which the suit was got restored and *ex parte* judgment was allegedly obtained by the decree-holder, filed objection petition under Section 47 CPC in the execution proceedings also. Such objection petition has been dismissed by the learned Executing Court on 31.07.2025.

7. Such order is under challenge.

8. Learned counsel for respondent/decree holder appears on advance notice and submits that there is nothing left in the present petition as pursuant to the *warrants of possession* issued by the learned Executing Court, the decree-holder has already received vacant and peaceful possession of the suit premises on 29.08.2025.

9. Learned counsel for petitioner, however, refutes the aforesaid contention.

10. Be that as it may, fact remains that a bare glimpse with respect to the objection petition filed under Section 47 CPC would indicate that the sole grievance raised by the judgment-debtor is to the effect that the suit was got restored in unilateral manner and, thereafter, *ex parte* decree was obtained which amounted to fraud.

11. All such aspects were clearly within the domain of Order IX Rule 13 CPC and as noticed already, such contentions have been rejected by the learned Trial Court as her said application was dismissed.

12. Needless to say, in case the petitioner herein is successful in her aforesaid appeal, restitution would come her way, automatically.



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13. No other objection or contention seems to have been taken in the objection petition under Section 47 CPC and, therefore, evidently, the learned Executing Court was justified in dismissing the objection petition.

14. Moreover, the scope of consideration of any such objection petition filed under Section 47 CPC is limited one, particularly, when the objection is coming from the judgment-debtor itself. Reference be made to *Pradeep Mehra v. Harijivan J. Jethwa: 2023 SCC OnLine SC 1395* wherein it has been observed that a bare perusal of Section 47 CPC would show that all questions between the parties can be decided by the executing court, but the important aspect to remember was that these questions are limited to the “execution of the decree”. It supplemented that the executing court can never go behind the decree and cannot examine the validity of the order of the court, unless the court’s order is itself was without jurisdiction. Reference be also made to *Dhurandhar Prasad Singh vs Jai Prakash University: (2001) 6 SCC 534*, wherein the Hon’ble Supreme Court has observed that the exercise of powers under Section 47 of CPC lies in a very narrow inspection hole and the Executing Court, can only allow objection under Section 47 CPC to the executability of the decree, if it is found that the same is *void ab initio and a nullity*, apart from the ground that the decree is not capable of execution under law either because the same was passed in ignorance of such a provision of law or law was promulgated making a decree inexecutable after its passing.

15. Clearly, the objection in question does not fall within the above prescribed sphere and parameters.

16. In view of aforesaid, this Court does not find any requirement of interfering with the impugned order as there is no illegality or perversity in deciding the objection petition.



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17. Present petition is, accordingly, dismissed.
18. However, it is clarified that observations made hereinabove would not, in any manner, influence the mind of learned Appellate Court seized with the appeal challenging dismissal of application moved under Order IX Rule 13 CPC i.e. RCA DJ 7/2025.
19. Pending applications also stands disposed of in aforesaid manner.

(MANOJ JAIN)
JUDGE

SEPTEMBER 1, 2025/dr/js