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

% ***Date of Decision: 17th July, 2025***

+ **CM(M) 1255/2025, CM APPL. 42004/2025 & CM APPL. 42005/2025
CHARAN DASS & ORS.**

.....Petitioner
Through: Mr. Vivek Srivastava, Advocate.

versus

MUKESH KUMAR

.....Respondent
Through: None.

CORAM:

HON'BLE MR. JUSTICE MANOJ JAIN

J U D G M E N T (oral)

1. Petitioners are aggrieved by dismissal of their objection petition which they had filed under Order XXI Rule 58 CPC.
2. Admittedly, a suit was filed by one Mr. Mukesh Kumar (respondent herein).
3. Mrs. Sunita (since deceased) was defendant No.4 in such suit.
4. Plaintiff claimed himself to be the owner of 50% of suit property i.e. House No. B-10, Gali No. 8, out of Khasra No. 898/192, measuring 70 sq yards situated at village Chandrawali, Shahadra, Delhi-110093.
5. It will be important to mention that, initially, the suit was filed against three defendants only and it was thereafter, amended and defendant No.4 to defendant No.7 were impleaded as parties on account of their claim that they had purchased some portion of "property under dispute".



6. As already noticed, the suit has been decreed and pursuant to such decree, when the Execution Petition was filed, the abovesaid objections were submitted by LRs of the deceased defendant No.4.

7. In terms of the decree, there is a direction to the concerned defendants to hand over possession of 25 sq. yards portion of the house in question.

8. The mere claim of the objectors is to the effect that their predecessor-in-interest i.e. defendant No. 4-Mrs. Sunita had purchased 22.5 sq. yards of the land against consideration and since the decree is qua 25 sq. yards, it is not executable.

9. Such objection has been dismissed by the learned Executing Court.

10. This Court has gone through the impugned order and it is quite evident that it does not suffer from illegality or perversity.

11. The learned Executing Court has gone to the extent of holding that, even if, it is presumed for the sake of arguments that the Objectors are in possession of only 22.5 sq. yards of land, they are, in law, bound to hand over possession of such area to the plaintiff in terms of the decree. It also observed that merely because decree is of a slightly more area, than being claimed to be possessed by the objectors, would not, *ipso facto*, make the decree inexecutable.

12. This Court does not find any error in such observation, particularly, considering the fact that their predecessor-in-interest i.e. defendant No. 4 was impleaded solely for the reason, she had purchased portion of the same very property which is under dispute.

13. Viewed thus, the present petition lacks any merit or substance.

14. However, when asked, Mr. Vivek Srivastava, learned counsel for the objectors, submitted that objectors have also filed a *Regular First Appeal*



(RFA) which has been already admitted. He submits that he would move appropriate application in said RFA (RFA No. 599/2025) seeking stay of the Execution Petition.

15. He is always at liberty to take any such step, as may be permissible under law.

16. In view of the aforesaid discussion, the present petition stands dismissed in *limine*.

17. Pending applications stand disposed of in aforesaid terms.

(MANOJ JAIN)
JUDGE

JULY 17, 2025/sw/SS