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

% *Date of Decision: 21st April, 2025*

+ CM(M) 699/2025 & CM APPL. 22643/2025

MAHENDRA MALHOTRA

....Petitioner

Through: Ms. Archana Gaur, Advocate
alongwith petitioner and daughter of
petitioner.

versus

UMA ARORA

....Respondent

Through: None.

CORAM:

HON'BLE MR. JUSTICE MANOJ JAIN

J U D G M E N T (oral)

1. The position in the present petition is strange and unusual.
2. One Ms. Uma Arora (respondent herein) filed a suit seeking eviction and recovery of possession. The suit had been filed against Ms. Neetu Malhotra.
3. A preliminary decree was passed in her favour on 12.04.2022.
4. Pursuant to the preliminary decree in favour of the decree holder, execution petition (Ex No. 166/2022) was filed before the Execution Court.
5. Mr. Mahendra Malhotra, (petitioner herein) happens to be father of Ms. Neetu Malhotra and filed independent objection in his own substantive and independent capacity. Ms. Archana Gaur, learned counsel for petitioner/objector submits that the primary and foremost ground of the Objector-Mahendra Lal Malhotra was to the effect that he was the owner of the property in question and, therefore, there could not have been decree with



respect to his property.

6. Such Objection Petition was taken up for consideration by the learned District Judge-02, (East), Karkardooma Courts, Delhi on 27.09.2024.

7. Interestingly, though, Mr. J K Sinha, learned Legal Aid Counsel representing such objector was present before the Court, the learned Executing Court dismissed the objection for the reason that the objector was not present in the Court. This looks little unusual as the counsel for the Objector was present before the Court and there is nothing to indicate that there was any order, directing or insisting for personal appearance of such objector.

8. Since the objector was duly represented, that day, the Court, after hearing the counsel, though could have dismissed the objection on merit but there was no reason, whatsoever, to have dismissed the objection in default.

9. To make things worse, when, immediately thereafter, an application was moved seeking restoration of such Objection Petition, same was rejected reiterating that any such objector is under obligation to appear before the Court on each and every date of hearing.

10. Such orders are under challenge.

11. None appears on behalf of respondent/decreed holder despite service of advance notice through e-mail.

12. The next date before the learned Executing Court is stated to be 23.04.2025.



2025:DHC:2829



13. Evidently and apparently, there is manifest illegality and perversity in the impugned order. Since the objector was duly represented before the learned Trial Court, there was no reason or occasion for the learned Trial Court to have dismissed the objection in default. The subsequent order dated 04.10.2024 is also cryptic and unsustainable as on that day, the Court was, merely, considering an application whereby the objector was seeking restoration of his Objection Petition.

14. Consequently, the petition is allowed by directing that the Objection Petition filed by the petitioner herein i.e. Mr. Mahendra Lal Malhotra stands restored to its original position and number as it existed on 27.09.2024.

15. Learned Trial Court shall, accordingly, consider and dispose of such objection in accordance with law and would, thereafter, proceed with the execution further.

16. The Petition stands disposed of in aforesaid terms.

17. The pending application also stands disposed of in aforesaid terms.

18. A copy of this order be given *dasti* under the signatures of Court Master.

(MANOJ JAIN)
JUDGE

APRIL 21, 2025/sw/pb