



2025:DHC:7368



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**% *Date of Decision: 25th, August, 2025*

+ CM(M) 1611/2025 & CM APPL. 52816-52817/2025

JAI PRAKASH SHARMA

.....Petitioner

Through: Dr. Ajay Chaudhary, Mr. Manoj Kr.
Bhagat and Mr. Rajeev Kokcha,
Advocates.

versus

M/S NATIONAL MARWARI FOUNDATION & ANR.

.....Respondent

Through: None.

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

1. Petitioner is having decree dated 22.02.2024 in his favour and based on such decree, an execution petition was filed which was, eventually, taken up by the learned Executing Court on 02.04.2025.
2. However, based on the averments made in the execution petition and believing the affidavit filed by the decree holder, the learned Executing Court issued, *warrants of attachment*. As per the report of bailiff, neither the registered nor any other office of judgment debtor was found available at the given address situated at Kashmiri Gate.
3. Learned Executing Court, thus, while observing that there was an attempt to mislead the Court has dismissed the execution petition, with cost of Rs.25,000/-.
4. Such order is under challenge.



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5. Learned counsel for petitioner submits that the decree holder was never given any chance to present his version before the learned Executing Court.
6. He submits that when the suit was pending adjudication, the summons were sent to the defendant-Society at the same very address situated at Kashmiri Gate and as per the specific report of the then process server, such summons were, rather, duly accepted by one Mr. Satyapal Sharma, authorized signatory, who even signed the copy of process as acknowledgment and had even mentioned his contact number.
7. It is submitted that the abovesaid report was never disbelieved by the learned Trial Court and the defendant-Society was proceeded against *ex-parte*. In such a situation, merely, because, at that moment, as per report, the defendant-Society does not seem to be existing at the Kashmiri Gate address, the execution petition could not have been dismissed *in toto*.
8. It is also submitted that the learned Trial Court has, without taking any response from the decree holder, castigated not only the decree holder but their counsel as well, as it has been mentioned in the order that they had misled the Court.
9. During course of the arguments, it was submitted that if one opportunity is granted to the petitioner, they would apprise about the exact position to the learned Executing Court.
10. Undoubtedly, nobody can be permitted to mislead the Court. However, at the same time, the impugned order seems to be a hasty one as before making such harsh observations and castigating the litigant and his counsel, the learned Executing Court should have, at least, given an opportunity to decree holder to respond to the report given by the concerned process server.
11. In view of the above, the impugned order dated 02.04.2025 is set aside



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and the learned Executing Court is requested to take up the Execution Petition on 02.09.2025 and, to pass further appropriate orders in the matter, after giving due opportunity of hearing to the decree holder.

12. However, it is clarified that the present order would not preclude the learned Executing Court to take fresh decision in accordance with law, *albeit*, it would be after taking inputs from the decree holder and his counsel.

13. The present petition is disposed of in aforesaid terms.

14. The pending applications also stand disposed of in aforesaid terms.

(MANOJ JAIN)
JUDGE

AUGUST 25, 2025/ss/pb