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

% *Date of Decision: 30th July, 2025*

+ CM(M) 1395/2025 & CM APPL. 45982-45983/2025

RITU SHARMAPetitioner

Through: Mr. Ashish Kr. Singh with Ms.
Chitrakashi Vedi, Advocates.

versus

KAILASH CHAND AND ANRRespondents

Through: Mr. Yogesh Bhardwaj, Advocate for
R-2 with R-2 in person.

CORAM:

HON'BLE MR. JUSTICE MANOJ JAIN

J U D G M E N T (oral)

1. Petitioner is aggrieved by order dated 10.07.2025 whereby her objection has been dismissed.
2. The point raised in the present petition is a very short one.
3. Admittedly, there was some dispute between the plaintiff-Mr. Kailash Chand and his wife-Mrs. Manju Rani. However, in a suit filed by Mr. Kailash Chand against his said wife, there was a decree.
4. The decree, it seems, was based on some settlement between the parties. Unfortunately, the copy of such decree has not been placed on record. Impugned order, however, records that, as per the settlement decree, the decree-holder and judgment debtor had agreed that they would have joint possession of the first, second and third floor of the suit property situated at West Kanti Nagar and the decree holder shall have exclusive possession of ground floor for running dental care shop and that judgment debtor shall not disturb the possession of the decree holder. Thus, as per settlement decree, the decree holder had right to possession of the suit property.



5. In terms of judgment and decree dated 21.08.2019, the decree holder i.e. Mr. Kailash Chand filed an execution petition seeking issuance of warrant of possession against his wife i.e. judgment debtor, in respect of house in question situated at West Kanti Nagar.

6. Fact remains that the abovesaid execution petition was filed in June 2022 and the judgment debtor also appeared in such execution petition.

7. So much so, judgment debtor even filed an Objection Petition. The stand of the judgment debtor was that the decree holder was trying to take undue advantage of his own wrongs and execution was liable to be rejected. According to her, documents had been forged and fabricated by her husband and that the property in question was her self-acquired property and, therefore, she was the absolute and actual owner of the said property.

8. Fact remains that her such Objection Petition was dismissed on 14.05.2024.

9. After dismissal thereof, the abovesaid Objection Petition was filed by petitioner Ms. Ritu Sharma on 21.11.2024.

10. According to her, she had purchased the suit property from the judgment debtor on 28.11.2022 and had paid the entire sale consideration and when she appeared before the concerned Sub-Registrar for registration of Sale Deed, it was refused for the reason that the matter was *sub judice*. The decree holder had already sent advance intimation to concerned Sub-Registrar as he apprehended that some third-party interest may be created in the suit property and it was only basis of such advance intimation given to the Sub-Registrar that the sale deed between the judgment debtor and objector was not registered.

11. It was in the abovesaid backdrop that she filed the abovesaid



objection before the learned Trial Court which has been dismissed by the learned Trial Court.

12. Such order is under challenge.

13. The petitioner claims herself to be *bonafide* purchaser and, therefore, submits that the Objection petition is maintainable and no execution can lie with respect to the property, which she has purchased.

14. However, her such contention is totally misplaced and rather goes on to frustrate the well settled doctrine of *lis pendens*. No resistance or obstruction to an execution of the decree for possession of immovable property is entertainable by a person to whom the judgment debtor has transferred the property, after the institution of the Suit.

15. Herein, evidently, the transfer of the property is much after the filing of suit and during the pendency of the Execution Petition.

16. Reference be made to *Usha Sinha vs Dina Ram: (2008) 7 SCC 144* wherein, Hon'ble Supreme Court, while referring to Rule 102 of Order XXI, observed as under:-

“A transferee from a judgment debtor is presumed to be aware of the proceedings before a Court of law. He should be careful before he purchases the property which is the subject matter of litigation. It recognizes the doctrine of lis pendens recognized by Section 52 of the Transfer of Property Act, 1882. Rule 102 of Order XXI of the Code thus takes into account the ground reality and refuses to extend helping hand to purchasers of property in respect of which litigation is pending. If unfair, inequitable or undeserved protection is afforded to a transferee pendente lite, a decree holder will never be able to realize the fruits of his decree. Every time the decree holder seeks a direction from a Court to execute the decree, the judgment debtor or his transferee will transfer the property and the new transferee will offer resistance or cause obstruction. To avoid such a situation, the rule has been enacted.”

17. Thus, the abovesaid *doctrine of lis pendens* acts as a protective



umbrella to any decree holder so that he is in possession to enjoy the fruits of decree in his favour.

18. There can be two possibilities. Firstly, perhaps, there is some kind of *nexus and connection* between the judgment debtor and the Objector and the endeavor is to frustrate the decree on one ground or the other. And secondly, objector is, actually speaking, a *bonafide* purchaser and that being so, she is always at liberty to take action against judgment debtor, as she may be advised, for cheating her and for keeping her in dark about the pending suit and execution.

19. Viewed thus, this Court does not find any reason to interfere with the impugned order which is not reflective of any illegality or perversity.

20. Learned Executing Court has already directed issuance of *warrant of possession* in terms of compromise deed/settlement dated 21.08.2019 and the decree holder is required to appear before learned Administrative Civil Judge on 11.08.2025 for appointment of Bailiff.

21. However, learned Executing Court is requested to re-assess and evaluate the exact import of the settlement agreement and consequent decree and, the *warrant of possession* be issued strictly in terms of such decree.

22. The present petition is, accordingly, disposed of in aforesaid terms.

23. Pending application also stands disposed of in aforesaid terms.

24. A copy of this order be also sent to learned Executing Court for information and compliance.

(MANOJ JAIN)
JUDGE

JULY 30, 2025/sw/PB