



2026:DHC:5750



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI****Date of decision: 20.07.2026**

+ EX.F.A. 60/2026, CM APPL. 45287/2026 (Stay) & CM APPL. 45288/2026 (Ex.)

SARITA PARWANDAAppellant

Through: Mr. Vishal Singh, Advocate.

versus

GUNJAN KUMARRespondent

Through: None.

**CORAM:
HON'BLE MR. JUSTICE HARISH VAIDYANATHAN
SHANKAR**% **JUDGMENT (ORAL)**

1. The present Execution First Appeal has been filed under Order XXI Rule 58(4) read with Order XLI Rule 1 of the **Code of Civil Procedure, 1908**¹, seeking to set aside the **Order dated 27.03.2026**² passed by the learned **Execution Court, District Judge-05, South East District, Saket Courts, New Delhi**³, in execution proceedings
2. Learned counsel appearing on behalf of the Appellant submits that the learned Executing Court failed to appreciate that the site plan

¹ CPC² Impugned Order³ Executing Court



relied upon by the Respondent is materially different from the actual property in occupation of the Appellant and that serious disputes exist regarding the identity of the property.

3. It is submitted that in the peculiar facts of the case, appointment of a Local Commissioner was necessary to identify the decreed property and the learned Executing Court erred in rejecting the said prayer.

4. This Court has heard learned counsel appearing on behalf of the Appellant and has perused the material placed on record, including the Impugned Order. The relevant paragraphs of the Impugned Order are extracted hereinbelow:

“5. In the present execution petition, DH has filed execution of judgment and decree dated 05.01.2022, whereby the suit of the plaintiff was decreed and defendants were directed to handover the peaceful and vacant possession of the suit property that is Ground Floor property bearing no.A-139, Pocket-8, Swapan Kunj, Kalkaji Extension, New Delhi. JDs here in have filed the appeal against the judgment and even the appeal was dismissed by Hon'ble High Court of Delhi vide judgment dated 25.04.2023.

Now JD no.2 has filed the objections stating that the suit property does not exist at all and the site plan filed by the plaintiff does not pertain to the suit property and DH has obtained the decree by misleading the court. As far as this objection is concerned, perusal of record shows that the defendants have taken the same objections before the Ld. Trial Court as well as before Ld. Appellate court and both the courts have concurrently rejected the plea of defendants including JD no.2.

Further, JD no.2 has taken plea that the suit property is involved in other litigations and on the ground that JD no. 2 has filed suit for cancellation of GPA and all the proceedings are pending. As far as this objection is concerned, mere pendency of other suits is no ground to stall the execution of a decree which has been



passed after proper adjudication as the decree in hand is a certain order while the pendency of other suits is just a probability. Further, perusal of record shows that all the averments taken in the objections as well as in the application moved for appointment of Ld. LC, have been taken by JDs before Ld. Trial Court as well as before Ld. Appellant Court and it seems that averments have been made just to stall the execution of decree and the same is not permissible.

Accordingly the application U/O 26 Rule 9 CPC for appointment of Ld. LC as well as the application u/O 21 Rule 58 r/w Section 151 CPC moved on behalf of applicant/objector Mrs. Sarita Parwanda/JD no. 2 for objection qua the attachment proceedings to property bearing no. A-8/139, Ground Floor, Swapan Kunj, Kalkaji Extn. New Delhi, stand dismissed.”

5. A perusal of the Impugned Order reveals that the learned Executing Court has specifically noticed that the very objections now sought to be urged before this Court had earlier been raised by the Appellant before the learned Trial Court as well as before the Appellate Court and stood rejected.

6. Therefore, this Court, upon consideration of the record, finds no infirmity in the aforesaid reasoning as the objections raised by the Appellant do not arise from any supervening circumstance during the course of execution proceedings. It is trite that an Executing Court is bound by the decree as it stands and cannot travel beyond its terms or reopen issues which have attained finality between the parties.

7. The Hon'ble Supreme Court in **Vasudev Dhanjibhai Modi v. Rajabhai Abdul Rehman**⁴, authoritatively held that an Executing Court cannot go behind the decree and is required to execute the decree as it exists, unless it is shown to be a nullity for want of inherent jurisdiction. The said principle has also been reiterated in

⁴ (1970) 1 SCC 670



Brakewel Automotive Components (India) Pvt. Ltd. v. P.R. Selvam Alagappan⁵, wherein the Hon'ble Supreme Court observed that objections in execution cannot be permitted to reopen issues which have already attained finality in the original proceedings.

8. In the present case, the dispute sought to be raised with regard to the identity of the suit property is not a matter arising during execution but is one which had already been urged and adjudicated upon in the original proceedings as well as in the appeal therefrom.

9. Similarly, the prayer for appointment of a Local Commissioner cannot be permitted to be employed as a device to reopen issues already concluded by the decree. As it is well settled that once the identity of the suit property formed part of the adjudication culminating in the decree, the same cannot be indirectly reagitated in the execution proceedings.

10. In the considered opinion of this Court, the learned Executing Court rightly held that the objections as well as the application seeking appointment of a Local Commissioner were only intended to delay the execution of the decree. Therefore, no jurisdictional error, perversity or illegality warranting interference under appellate jurisdiction has been demonstrated.

11. Consequently, the present Appeal along with the pending Application(s), if any, stand disposed of in the aforesaid terms.

HARISH VAIDYANATHAN SHANKAR, J.
JULY 20, 2026/nd/jk

⁵ (2017) 5 SCC 371