



2026:DHC:2009



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

*Reserved on: 25th February, 2026
Date of Decision: 11th March, 2026*

+ **CM(M) 2792/2024, CM APPL. 35147/2024, CM APPL. 35148/2024, CM APPL. 35149/2024, CM APPL. 71216/2024, CM APPL. 33131/2025, CM APPL. 33132/2025 & CM APPL. 495/2026**

MADHU MALTI SAINI

.....Petitioner

Through: Mr. Karanveer Singh and Ms. Anuradha Yadav, Advocates along with petitioner in person.

versus

RAJESH SAINI AND ORS

.....Respondents

Through: Mr. Sandeep Sharma, Sr. Advocate with Mr. Sarthak Mannan, Mr. Rakesh Kumar Bhardwaj, Ms. Meera Mathur and Mr. Ankit Parindiyal, Advocates.

CORAM:

HON'BLE MR. JUSTICE RAJNEESH KUMAR GUPTA

ORDER

1. The present petition has been filed by the petitioner under Article 227 of the Constitution of India, 1950, assailing the order dated 13th October, 2023 passed by the learned Trial Court in Execution No. 228/2022, whereby the objections filed by the petitioner were dismissed, as well as the subsequent order dated 24th May, 2024 passed in the said execution proceeding, whereby the warrant of possession of the suit property has been issued.
2. I have heard the learned counsel for the parties and perused the record.



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3. Learned counsel for the petitioner has argued that the execution petition was not maintainable at the instance of Decree Holder namely Sh. Rajesh Saini (*'Now Deceased'*) as he has no *locus standi* to file the same because after the settlement dated 03rd May, 2019 the Decree Holder has not received any relief in that settlement. As per that settlement the only beneficiaries are Sh. Nikhil Saini and Ms. Neharika Saini who are the Son and Daughter of Sh. Rajesh Saini and presently are Respondent no. 2 and 3 in the present petition and also the representatives of Sh. Rajesh Saini (*'Respondent no.1'*) as his Legal Heirs. If the execution petition has to be filed it has to be filed by Respondent no. 2 and 3 only, but they have chosen not to file the same. The petitioner has strong apprehension that both these respondents being her grandchildren are not willing to claim anything from the petitioner in the suit property and that the undertakings of these respondents have also been forged by their father. It is further argued that the trial court has passed the impugned orders on the basis of surmises and conjectures without appreciating the facts on record. On these grounds it is prayed that the impugned orders be set aside.

4. *Per contra*, learned counsel for the respondents has submitted that the impugned orders have been passed by the Trial Court after duly considering the entire material placed on record and the present petition has been filed only to delay the execution of the decree.

5. The Decree Holder has filed the suit for possession against the petitioner to recover the possession of one (01) room on the 2nd floor of the property bearing no. D-126, Freedom Fighter Enclave, IGNOU Road, Neb Sarai, New Delhi. This suit was settled between the parties *vide* settlement dated 03rd May, 2019 arrived at the Mediation Centre, Saket Court, New



Delhi. The relevant clauses in that settlement as to the suit property are as follows:

“5. It is assured by the first party to the second party that he will bring the NOC/undertaking letter from his son Sh. Nikhil Saini and his daughter, namely, Ms. Neharika Saini in respect of as they will not claim anything from the above-mentioned suit property and the same will be handed over to the second party prior to filing the quashing petition before the Hon'ble High Court of Delhi and if the first party fails to do the same in that eventuality, both the parties are at liberty to take appropriate steps, as per law.

6. Now the second party is willing to give the second floor of the suit property bearing No.D-126, Freedom Fighters Enclave, IGNOU Road, Neb Sarai, New Delhi-110068 to Sh. Nikhil Saini and Ms. Neharika Saini in jointly equal shares without roof right for which both are having the right to live over there or to rent out the premises or to sell out the said property. It is also submitted by the second party that above-mentioned second floor has now been rented out on Rs.13,000/- to a tenant and w.e.f. 1st June, 2019, the rent amount received from the said tenanted premises, shall be received jointly by Sh. Nikhil Saini and Ms. Neharika Saini and second party shall inform the tenant accordingly.

7. It is also agreed between the parties that the ground floor and first floor of the said suit property shall remain with the second party Smt. Madhu Malti Saini and first party ensure that he will not create any problem to her.”

6. It is apposite to refer to the decision of the Hon'ble Supreme Court in **Garment Craft v. Prakash Chand Goel, (2022) 4 SCC 181**, wherein the Court delineated the scope and limits of the supervisory jurisdiction exercised by the High Courts under Article 227 of the Constitution of India, and the relevant observations are as under:

“15. Having heard the counsel for the parties, we are clearly



of the view that the impugned order¹ is contrary to law and cannot be sustained for several reasons, but primarily for deviation from the limited jurisdiction exercised by the High Court under Article 227 of the Constitution of India. The High Court exercising supervisory jurisdiction does not act as a court of first appeal to reappreciate, reweigh the evidence or facts upon which the determination under challenge is based. Supervisory jurisdiction is not to correct every error of fact or even a legal flaw when the final finding is justified or can be supported. The High Court is not to substitute its own decision on facts and conclusion, for that of the inferior court or tribunal.³ The jurisdiction exercised is in the nature of correctional jurisdiction to set right grave dereliction of duty or flagrant abuse, violation of fundamental principles of law or justice. The power under Article 227 is exercised sparingly in appropriate cases, like when there is no evidence at all to justify, or the finding is so perverse that no reasonable person can possibly come to such a conclusion that the court or tribunal has come to. It is axiomatic that such discretionary relief must be exercised to ensure there is no miscarriage of justice.

7. From the material on record, it is evident that the Decree Holder has filed the suit against the petitioner and the matter has been settled between them as per the settlement dated 03rd May, 2019. The Decree Holder is within his legal rights to enforce the decree dated 27th July, 2019 which has been passed in terms of the settlement dated 03rd May, 2019. Accordingly, the plea of the petitioner that the Decree Holder has no *locus standi* to enforce that decree is without any legal basis. The trial Court has passed reasoned impugned orders after considering the material on record. Therefore, in the absence of any patent illegality, perversity, or jurisdictional error in the impugned orders, no ground for interference under Article 227 of the Constitution of India, 1950 is made out and the impugned orders are upheld.



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The present petition is dismissed as being devoid of any merits. Pending application(s), if any, also stands disposed of.

**RAJNEESH KUMAR GUPTA
JUDGE**

MARCH 11, 2026/isk