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EX. No. 97/23

BABU RAM Vs. RAM AVTAR TYAGI

07.02.2025

Present : Sh. Rajesh Kumar, Ld. Counsel for the DH
alongwith DH.
Sh. G. S. Arora, Ld. Proxy Counsel for the JD.

Show cause notice of application under Order XXI Rule 38 r/w Section 151 CPC for issuance of warrants of arrest has been served on the JD through his son on 31.01.2025. However, neither any reply has been filed to the said show cause notice on behalf of the JD nor has JD appeared before the court and only a Proxy counsel appears, who requests an adjournment of proceedings.

Ld. counsel for the DH submits that JD is deliberately not paying the decretal amount, however, he has resources to pay the same. It is also submitted by Ld. counsel for the DH that cheque of Rs. 50,000/- handed over by the JD to the DH during the execution of warrants of attachment of movables was dishonoured. Ld. counsel for DH requests for issuance of warrants of arrest against the JD.

Submissions heard. Record perused.

Perusal of the record shows that on 31.05.2024, Ld. counsel for JD appeared before the court and submitted that remaining payment as per settlement shall be made by NDOH. However, no such payment was made on behalf of the JD till date. Further, at the request of JD, the matter was also referred to

Delhi Mediation Centre, Karkardooma Courts, Delhi for amicable resolution of the matter. However, mediation was not successful. Therefore, the entire proceedings in the matter shows that JD is deliberately and intentionally avoiding payment of the remaining decretal amount on one pretext or the other. Thus, there is a willful neglect on the part of JD in making payment of remaining decretal amount despite his counsel submitting before the court that payment would be made.

In view of aforesaid circumstances, **application under Order XXI Rule 38 r/w Section 151 CPC stands allowed**, let warrants of arrest be issued against JD on filing of the PF and subsistence allowance, returnable before this court on 17.03.2025 and for appearance before Ld. ACJ, East District, Karkardooma Courts, Delhi for appointment of Bailiff on 25.02.2025.

Ld. Counsel for DH is directed to file the latest statement of outstanding amount. DH shall also file an affidavit alongwith PF that there is no stay from the Higher Court on the present execution proceedings.

As requested, copy of this order be given dasti to Ld. counsel for DH.

(SOMITRA KUMAR)
DJ-06, EAST/ KKD COURTS
DELHI/07.02.2025 ^(R)