

21.01.2025

Present: Shri Arjun Yadav, Id. Counsel for DH.
None for JD.

It is submitted that present execution petition is filed by DH against the JD for recovery of Rs.5 lakhs alongwith interest. It is further submitted that this hon'ble court had tried the CS No. 378/21 seeking recovery of Rs.5 lakhs filed by the DH against the JD and passed an ex-parte judgment / decree dated 11.04.2023 against the JD. It is further submitted that JD came to know about the present execution petition only on 16.03.2024, when DH met the JD and informed him about the Warrants of attachments of his Creta Car and Judgment / decree dated 11.04.2023 and further informed him that on 21.03.2024 the possession of his Creta Car will be taken from him. It is further submitted that since 2018 and period before that, DH and his sister namely Ruchi Mehta are engaged in legal activities of cricket betting and gambling etc. and also run a betting bookie services, which is against the laws of our country. It is further submitted that JD is engaged in the business of trading of pool and biliard table and has earned a considerable reputation in the market and since 2017-2018 DH and his sister are known to JD being neighbours. It is further submitted that DH and his sister were well aware that JD belongs to an affluent and respectful family background, and has considerable money at his disposal earned from his business, both DH and his sister in connivance with each other conspired to befool JD and allure him into betting and dupe his money. It is further submitted that in furtherance of said conspiracy, DH and his sister persuaded JD to place some money in online cricket-betting, which JD declined, but DH and his sister continuously persuaded the JD by saying that now online cricket-betting has been legalized in India through some Apps and due to constant persuasions and inducement by DH and his sister, JD paid

some money to the DH and his sister. It is further submitted that since JD was not willing to play or to do anything related to online betting himself, and was not accordingly willing to pay any amount to DH and his sister as an advance, DH and his sister in order to win confidence of JD told him that DH and his sister will do all things themselves and JD does not need to pay anything in advance, and accordingly persuaded JD to give 4 blank cheques as security, which would be returned to JD in case betting in his name is favourable, and in case of unfavourable, JD was required to pay lost-amount in bank account of sister of DH. Without knowing malafide intentions of DH and his sister, and also being so induced by DH and his sister, JD agreed to give 4 blank signed cheques to DH and his sister as security. It is further submitted that in the year 2019, DH and his sister without any instructions from JD placed his money in betting on his behalf and thereafter informed JD that he has suffered a loss of Rs.4,30,000/- in the betting book. JD got shocked and was unwilling to pay such huge amount to DH and his sister, but DH and his sister forced JD to return an amount of Rs.6,78,690/- alongwith interest in the bank account of sister of DH by threatening the JD that they will misuse cheques. It is further submitted that JD belongs to respectable family and on such threats by DH and his sister, got perplexed and intimidated and agreed to pay Rs.6,78,690/- in the bank account of sister of DH but sought sometime to pay the same. DH and his sister gave time of 9 months for payment of said amount. JD paid a total amount of Rs.6,78,690/- in the bank account of sister of DH last by December 2019. Both DH and his sister had illegally and wrongfully received an amount of Rs.6,78,690/- from JD. Both refused to return 4 blank security cheques back to JD despite illegally receiving the said amount. DH and sister in connivance and in complicity with each other filed the false civil suit for recovery of Rs. 5 lakhs and obtained ex-parte judgment and decree. It is further submitted that in July 2022, DH informed JD that Civil Suit No. 378/21 filed by him has been

withdrawn and soon the cheques will be returned to JD, as presently all the cheques were lying in the court custody. Believing DH in good faith, JD failed to appear before the court. JD had already transferred the amount which was due towards the DH. It is further submitted that present execution petition has been filed without prior information or knowledge which has caused undue hardship to JD. It is therefore requested that the present execution petition be dismissed and objections be allowed.

Reply on behalf of DH to the objections of the JD to the execution petition has been filed by DH. It is submitted that objections of the JD are not maintainable in an execution petition as per law after dismissal of his application u/o 21 rule 26 CPC vide order dated 04.07.2024 passed by the court, therefore, the objections are not maintainable in the eyes of law. Thereafter, the JD has filed an application u/o 9 rule 13 CPC for setting aside the ex-parte decree in CS No. 378/2021 and was dismissed by the Ld. predecessor Court, therefore objections are not maintainable in the eyes of law. It is further submitted that objections filed by the JD is nothing but sham exercise of JD to delay the execution petition. DH further denied all other allegations as alleged by the JD in the present objections and prayed for dismissal of the objections.

Heard. Record perused and considered.

Present suit was filed on 04.09.2021 and summons were issued to the defendant. The defendant was served vide order dated 18.07.2022, however, defendant did not appear before the court. Several opportunities were given but defendant has not filed written statement nor appeared before the court. Thereafter, the defendant was proceeded ex-parte vide order dated 06.10.2022 and ex-parte plaintiff's evidence was recorded. Ex-parte final arguments heard and judgment and decree dated 11.04.2023 was passed. It is pertinent to mention here that the decree has already been passed against the

defendant, now the JD has filed the present objection to bring his defence on record. This is not a proper stage to file the said objections as alleged in the present execution petition as the executing court has no power to go beyond the decree. In view of above, there is no merit in the objections. Hence, the objections filed by the JD is dismissed.

Put up for further proceeding on 10.03.2025.

(Pooja Jain)
District Judge-03/NB
East/KKD Courts/Delhi
21.01.2025