

EX 43/23
MUKESH KUMAR Vs. SUMIT KUMAR

22.11.2025

Present: Sh. Pramod Tyagi, Ld. Counsel for decree holder with
decree holder.
Sh. Bharat Kashyap, Sh. Divyam Gaur and Sh. Shobit
Dimri, Ld. Counsel for JD with JD.

1. Mediation between the parties has failed.
2. Statement of JD recorded today in Court.
3. JD is liable to pay a sum of over Rs. 18 lac under the decree and till date he has only paid a sum of Rs. 7450/- to decree holder.
4. Vide this order I shall decide the objections of the JD preferred U/O XXI Rule 58 CPC dated 24.07.2025 and also whether any action is liable to be taken against the JD U/S 215 (1) (b) BNSS r/w Section 379 BNSS.
5. I propose to deal with the issue of prosecution of JD under the aforesaid provision first.
6. As already noted, JD is liable to pay over Rs. 18 lac under the decree and till date he has only paid Rs. 7450/- to decree holder.
7. He has already undergone civil imprisonment of 89 days.
8. It is pertinent to note that JD had claimed before this Court (vide his statement dated 28.10.2025) that he works for one **Rupesh Gupta and Mohit Gupta**. He thereafter, filed an affidavit in Court dated 29.10.2025 giving the particulars of Mohit Gupta as his employer. In the said affidavit, he specifically claimed that he is working with Ganpati Agency as goods supplier and Mohit Gupta is the owner of the said agency.

9. On the basis of his statement and affidavit, notice was sent to Mohit Gupta to specify, in writing, as to how much amount does Mohit Gupta pay to JD as salary or otherwise. This was on 29.10.2025.
10. A warrant of attachment of salary was also sent to Mohit Gupta acting on the statement and affidavit of JD. But, process sent to Mohit Gupta and the warrants of attachment sent to him both had come back to the Court with a report that JD does not work for Mohit Gupta.
11. Mohit Gupta gave in writing on the notice sent to him as well as on the warrants of attachment sent to him (both made returnable for 15.11.2025) that “*we have no concern with the notice because we have no employee in such name; not working with us.*” While the notice is endorsed with the aforesaid on 13.11.2025, the warrants of attachment is endorsed with the date 06.11.2025.
12. Thus, apparently, Mohit Gupta on 06.11.2025 and 13.11.2025 claimed that JD is not his employee. Thus, apparently, JD made a false statement on oath before this Court and even filed a false affidavit in this regard.
13. Thus, JD was given notice to explain the above. In response, no written explanation was filed by JD and it was orally argued on his behalf that since employer of JD did not want to come in Court and since, JD is not a formal employee of Mohit Gupta, therefore, the said Mohit Gupta denied that JD is his employee. It was orally submitted that brother of JD is in possession of some telephonic conversation to support this fact.

14. I am not inclined to accept the said explanation. If JD is only an informal employee of Mohit Gupta, there is no reason as to why Mohit Gupta would categorically refuse to acknowledge JD as his '*informal employee*'. But, the report received back on warrants of attachment dated 06.11.2025 and on the notice sent to him dated 13.11.2025 from Mohit Gupta is categorical that Mohit Gupta has no concern with JD and JD is not working for Mohit Gupta. This shows that prima-facie, JD has lied on oath and has given a false affidavit in Court.
15. This is despite the fact that JD being aware of his liability to pay under the decree was obligated in law to state the truth about his employment and also make correct declaration of his income source. But, he has lied about the said facts.
16. Again, no telephonic conversation has been filed in Court by the JD which purportedly is in possession of brother of JD.
17. I may further note that JD had otherwise filed a reply supported with an affidavit dated 18.03.2025. This was in response to an application of decree holder claiming attachment of JD's property. In the said reply, JD had claimed that **he has no concern with the movable and immovable property of his parents (in para 3 under heading 'preliminary objections')**. This reply was filed to prevent the Court from ordering attachment of immovable property of JD bearing No. B-62, Gali No. 1, Prem Vihar, Shiv Vihar, Delhi-110094.
18. Vide order dated 04.06.2025, the said objection of JD was disposed of by this Court.

19. But, it is pertinent to note that as noted above, in the reply noted above, JD has specifically claimed that since he has been debarred by his parents, he has no concern in the property of his parents including the above described property.
20. But, now, he has preferred a separate objections in Court U/O XXI Rule 58 CPC claiming that the aforesaid property has a share of JD (with he being entitled to 1/6th share). The said objections are also supported with an affidavit dated 23.07.2025.
21. Thus, on one hand JD initially claimed that he has no concern in the above property and thereafter, he claimed that he has a share in the property. This again shows that either of the two statements of JD are false. This again is aimed at preventing execution of decree in this case.
22. In my humble opinion, thus, prima-facie JD has violated Section 227 BNS r/w Section 229 and Section 236 BNS (as he has given false evidence/statement about his employment noted above). He has also filed two contradictory applications/affidavits making diagonally opposite claims about his entitlement in property bearing No. B-62, Gali No. 1, Prem Vihar, Shiv Vihar, Delhi-110094. This is again in violation of Section 236 of BNS. Thus, he is liable to be prosecuted under the aforesaid provisions in light of Section 215 (1) (b) BNSS r/w Section 379 BNSS.
23. Accordingly, the Reader of the Court is directed to place the copy of this order alongwith the following documents before the Ld. CJM (Shahdara), KKD Courts, Delhi for 29.11.2025 with a request to treat the present order as a complaint case

made under the aforesaid provisions for prosecuting **Sumit Kumar S/o Sukhram aged about 37 years R/o B-62, Gali No. 1, Prem Vihar, Delhi** for the aforesaid offences as per law:-

1. Statement of Sumit Kumar dated 28.10.2025 recorded in Court;
2. his affidavit dated 29.10.2025 about his employment with Mohit Gupta;
3. the copy of the court notice alongwith the report thereupon signed by Mohit Gupta on 13.11.2025;
4. copy of warrants of attachment of salary sent to Mohit Gupta alongwith the report given by Mohit Gupta dated 06.11.2025;
5. copy of application filed by decree holder/Mukesh Kumar U/S 21 Rule 13 CPC filed on 17.03.2025;
6. reply of JD to the above application with affidavit dated 18.03.2025; and
7. application of JD U/O XXI Rule 58 CPC dated 24.07.2025 with affidavit dated 23.07.2025.

24. For allowing appearance of Sumit Kumar before the Court of Ld. CJM (Shahdara) for the aforesaid complaint, he is directed to file bail bonds U/S 91 of BNSS with one like surety in the amount of Rs. 15,000/-.

25. Bail bonds filed, which are accepted till 29.11.2025. On the said date, Sumit Kumar shall appear before the Ld. CJM (Shahdara) and may procure his bail as per law.

26. This brings me to JD's objections filed U/O XXI Rule 58 CPC dated 24.07.2025 filed with affidavit dated 23.07.2025. Under the said objections, JD wants recall and review of order dated 04.06.2025 and 14.07.2025 vide which 1/6th share of JD in

property bearing No. B-62, Gali No. 1, Prem Vihar, Shiv Vihar, Delhi-110094 was attached.

27. I have already noted that earlier, JD had claimed before this Court that he has no concern in the said property and subsequently, he claimed that he has a share in the property. For the said diagonally opposite claims, appropriate proceedings have already been ordered by this Court.
28. The only ground argued before this Court was that since the aforesaid house is the sole residence of JD, therefore, in light of Section 60(1) (ccc) CPC, the said house could not have been attached by this Court.
29. Perusal of record shows that in the affidavit annexed with the said application, JD has given his address as **B-64, Prem Vihar, Karawal Nagar, Delhi-110094. In contrast, the house ordered to be attached by this Court to the extent of 1/6th share vide order dated 04.06.2025 and 14.07.2025 is B-62, Prem Vihar, Karawal Nagar, Delhi-110094.**
30. Thus, it is apparent that the said house attached is not the sole house of the JD as he himself has filed an affidavit dated 23.07.2025 giving a different address than the house ordered to be attached by this Court.
31. Even otherwise, considering the conduct of the JD noted above, it appears that he is a repeat liar and he lies on oath with impunity. In this regard, apart from his conduct noted above, I may also take note of order dated 01.04.2024 wherein the predecessor of this Court had taken note of the false stand of JD qua non-service of summons of the suit. It was categorically noted in the said order that the JD's claim that he was never served is false in as much as he filed written statement in the

main suit. Even the fact that JD was not aware about the execution proceedings was found to be false as he himself had filed an application seeking cancellation of warrants of attachment.

32. Thus, JD herein is a repeat liar and his bald claim that the property ordered to be attached is his only dwelling house cannot be believed. **His affidavit filed with the objections shows a different address.** Thus, the objections filed herein are misconceived. They are dismissed.
33. The 1/6th undivided share in property bearing B-62, Gali No. 1, Prem Vihar, Shiv Vihar, Delhi-110094 is already lying attached with this Court. JD has not made any payment to the decree holder (except for Rs. 7450/-).
34. Thus, there is no option for this Court but to order auction of the aforesaid property.
35. Since JD has already been given notice with respect to settlement of terms of proclamation of sale under Order XXI Rule 54 CPC, there is no need to give separate notice to the JD for the proclamation of sale to be issued.
36. Let the said proclamation of sale be pasted outside the Court room and also be published in the prescribed proforma in two local newspapers i.e. 'Virat Vaibhav' and 'Statesman'. The proclamation be also brought to the notice of general public as well as to the public through beat of drums.
37. Let decree holder deposit necessary publication charges for publication of notice of sale in 'Virat Vaibhav' and 'Statesmen' inviting bids for the sale of the property in question. Let notice of sale be also pasted outside the Court room as well as at the

property in question. The publication shall take place atleast one month prior to the date of auction and decree holder shall bear the expenses of auction including expenses for arranging chairs, tables etc at the spot on the date fixed for auction.

38.The date of auction is fixed as 31.01.2026 and Sh. Kamal Kumar Pandey, Enrl. No. D/1842/2005, Chamber No. G-506, 5th Floor, Lawyers Chamber, Karkardooma District Courts Complex, Shahdara, Delhi-110032, mob: 9868354438 is appointed as Court Auctioneer for carrying out auction of the property bearing No. B-62, Gali No. 1, Prem Vihar, Shiv Vihar, Delhi-110094 to the extent of 1/6th share of JD in the said property. The minimum reserve price of the property will not be less than the prescribed circle rate which is applicable for sale of property in the area. Court Auctioneer shall fix the reserve price of the property in question by making necessary calculations. The auction proceedings shall be video recorded. Concerned SHO is directed to provide police aid including lady police for carrying out auction proceedings in this case.

39.Decree holder shall be entitled to get reimbursement of the expenses made by him from the sale proceeds alongwith the decretal amount. The remaining amount, if any, shall be returned to the JD, after confirmation of sale.

40.In the publication to be made, it shall be specifically mentioned that the property shall be sold on 'as is where is basis' and the intended purchaser shall have to verify the factum of ownership/title of the property himself. The fees of Court Auctioneer shall be as per rules. An amount of Rs. 10,000/-

shall be paid in advance to him and the remaining fees shall be paid to him from the sale proceeds.

41. List the matter for further proceeding qua report of Court Auctioneer on **05.02.2026**. Copy of this order be given dasti to the parties and be also sent to the concerned Court Auctioneer for information and compliance.

Aashish Gupta
DJ-01/NE/KKD/DELHI
22.11.2025