

27.08.2024

Present: Sh. Mohit Ramdeo, Ld. Counsel for the DH.

None for JD.

1. Ld. counsel for DH pressed upon for issuance of warrants of possession qua property bearing no. *Flat No. C-3, in property bearing no. 106 and 107 out of khasra no. 160, situated in Revenue Estate of Village Nawada, Delhi.*

2. Submissions heard.

3. Record reveals that vide judgment dated 08.07.2023 following decree was passed i.e. subject matter of present execution:

'22. Plaintiff is held entitled to possession of suit property i.e. flat bearing no. C-3, area measuring 109 sq yds., in property bearing no. 106 & 107, out of Khasra no. 160, situated in the Revenue estate of village Nawada, Delhi more specifically shown in red colour in site plan Ex. PW-1/1. Defendants are directed to hand over vacant and peaceful possession of the suit property to the plaintiff. Defendants are further restrained from creating any third party interest or part with possession of the suit property to any third person. Defendant no. 1 is further directed to pay a sum of Rs. 30,000/- to the plaintiff towards arrears of rent for the month of February, 2017. Defendant no. 1 and 2 are also directed to pay jointly and severally mesne profit / occupation charges @ Rs.30,000/- per month from the month of April,2017 till actual possession of the suit property is handed over to plaintiff. Cost of suit is also awarded in favour of plaintiff.'

4. Present execution petition filed on 15.02.2024 upon which notices were issued and served to both JDs. However, on 26.04.2024, Ld. counsel for JD No. 2 appeared and apprised this court

about the stay order qua operation of present execution petition imposed by Hon'ble High Court of Delhi in RFA 898/2023 dated 07.11.2023 in following terms:

"5. Subject to the appellant depositing the monetary component of the impugned decree into Court within a period of six weeks from today, and continuing to deposit monthly occupation charges @ Rs.30,000/- by the 10th of each month, parties are directed to maintain status quo with regard to possession of the suit property until the next date of hearing."

5. Record reveals that on 26.04.2024 during hearing, Ld. counsel for JD specifically admitted to the fact that the JD has not complied said condition and in fact filed review petition against condition imposed by Hon'ble High Court of Delhi. However, till date no such detail filed before this court.

6. Ld. Counsel for DH submit that, since there is breach of condition, warrant of possession may be issued. It is also submitted that, DH has already filed reply to pending Appeal but, there is no stay qua present proceedings.

7. None appeared on behalf of JD despite repeated calls since morning. None appeared on behalf of JD even on LDOH. In view thereof, issue warrant of possession of the suit property on filing of PF.

8. DH is directed to appear before the office of Ld. ACJ/SW/Dwarka for appointment of bailiff on 03.09.2024.

9. Put up for further proceedings on 14.10.2024.

(SHILPI M JAIN)
DJ-05 (SW)/Dwarka Courts
New Delhi: 27.08.2024