

Ex. No. 231/2024
Jagdip Singh Bedi Vs.
Kshitij Gupta

26.10.2024

Present: Sh. Murari Kumar, Ld. Counsel for DHs.
Sh. Anil Kumar Maurya, Ld. Counsel for JD.

After LDOH, an application u/o XXI Rule 26 & 28 r/w Sec.47 & Sec.151 CPC along with annexures for seeking stay of the execution proceedings till final disposal of RFA No.588/2024, was filed on behalf of JD through e-filing and its hard copy was also furnished. Be taken on record. Copy supplied.

On behalf of applicant/ JD mainly reliance is placed on para nos.9 & 10 of order dated 23.09.2024, passed by the Hon'ble High Court in RFA no.588/2024, CM APPL.49434/2024, etc., which reads,

'9. Ld. Counsel for the appellant draws the attention of the court to order dated 09.09.2024 passed by the executing court in Ex.No.231/2024 captioned Jagdip Singh & Ors. v. Kshitiz Gupta to submit that the bailiff has been appointed and direction for breaking the locks of the subject premises have been passed in terms of order of the executing court.

10. In view of the fact that the court has fixed this matter for hearing on 18.10.2024 at a fixed time, both parties shall jointly request the Ld. Trial Court to adjourn the matter to a date beyond the date fixed by this court'.

Warrant of possession issued vide order dated 09.09.2024 are received back along with which order dated 24.09.2024 passed by Ld. ACJ, West, is annexed. In the said order it is mentioned that on the basis of joint request of Ld. Counsels for both the parties, given pursuant to the aforementioned of the Hon'ble High Court, bailiff was not appointed.

Contd..2/-

Ld. Counsel for the applicant/ JD has stated that on 18.10.2024 the proceedings of the RFA before the Hon'ble High Court were deferred to 10.03.2025 due to paucity of time. He has contended that it contemplates that the execution proceedings in the matter be also adjourned beyond the date fixed in the appeal i.e. 11.03.2025.

Ld. Counsel for respondent/ DHs has strongly opposed the plea made in the application mainly stating that in the aforesaid order of the Hon'ble High Court dated 23.09.2024 it is clearly mentioned that CM APPL. 55893/2024 for seeking stay of execution, was dismissed as withdrawn, that otherwise also no specific order has been passed for staying the execution proceedings and that the JD/ defendant has not deposited the arrears of rent/ occupation charges as per the directions of this court.

On inquiry, Ld. Counsel for the applicant/ JD has stated that as per the relevant order of this court passed in the main case, the JD is required to deposit the arrears of rent/ occupation charges by first week of November 2024.

In view of the facts and circumstances of the present matter when the JD is praying for stay of the execution proceedings beyond the date of NDOH fixed before the Hon'ble High Court, he is expected to do equity by depositing the arrears of rent/ occupation charges within the stipulated period and since the said period is yet to be elapsed, the present matter is being adjourned.

Put up for consideration/ arguments on 14.11.2024.

(GOPAL SINGH CHAUHAN)
DJ-03, WEST/DELHI
26.10.2024