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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ RSA 34/2025

SMT SUSHMA KUMARI SAHANIAppellant

Through: Mr. Harendra Singh and Mr. M.C. Sharma, Advocates.
Appellant in-person.

versus

SH DINESH MIGLANIRespondent

Through: Counsel (appearance not given).

CORAM:

HON'BLE MR. JUSTICE ANUP JAIRAM BHAMBHANI

ORDER

% **26.08.2025**

CM APPL. 52975/2025

By way of the present application filed under Order XLI Rule 5 along with section 151 of the Code of Civil Procedure 1908, the applicant/appellant seeks stay of execution proceedings in Execution Petition No. 456/2019.

2. At the outset, it is noticed that CM APPL. No. 10403/2025 seeking stay of the impugned judgment dated 17.09.2024 passed by the learned first appellate court is already pending.
3. An application bearing CM APPL. No. 10406/2025 seeking condonation of 63 days' delay in *filing* is also pending.
4. For the record, *vide* judgment and decree dated 22.04.2019, the learned trial court had decreed the suit, whereby the respondent had sought recovery of possession alongwith *mesne profits*.



5. Upon being queried, learned counsel appearing for the appellant has drawn attention to the proposed questions of law contained in para 3 of the Memo of Appeal. A perusal of the said questions shows that they relate essentially to matters of evidence and questions of fact, on which two courts have made concurrent findings against the appellant. In view thereof, this court is unable to discern any basis to stay the proceedings in Execution Petition No. 456/2019.
6. Learned counsel has appeared on behalf of the respondent on advance copy; and informs the court that the respondent/Sh Dinesh Miglani has passed away on 16.03.2025; and the appellant is aware of the same. Counsel submits that in view thereof, the appellant ought to have taken steps to substitute the legal representatives of the deceased respondent, which steps have not been taken. In the circumstances, counsel submits that she is not empowered to accept notice on this application.
7. Accordingly, re-notify on 05th December 2025.
8. In the meantime, let steps be taken to substitute the legal representatives of the deceased respondent, if so advised.
9. It is made clear this court finds no basis to grant any interim relief to the appellant *at least at this stage*.

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10. Re-notify on 05th December 2025, the date already fixed.

ANUP JAIRAM BHAMBHANI, J

AUGUST 26, 2025/ak