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

+ **CM(M) 662/2023 & CM APPL. 20659/2023(Stay)**

MOHD. ISMAIL Petitioner

Through: Ms. Sadaf, Adv.

versus

**SMT. ANISHA (DECEASED THROUGH
LEGAL HEIRS)**

..... Respondent

Through: None

CORAM:

HON'BLE MR. JUSTICE TUSHAR RAO GEDELA

ORDER

26.04.2023

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[The proceeding has been conducted through Hybrid mode]

1. The petitioner challenges the order dated 03.03.2023 in execution petition No.802/2017 titled 'Mohd. Ismail Vs. Anisha' whereby the respondent/judgment debtor has been afforded another opportunity to file their objections in the execution petition filed by the petitioner/decreed holder.
2. Ms. Sadaf, learned counsel appearing for the petitioner/decreed holder submits that vide the order dated 23.01.2023, objections which were filed by the very same judgment debtor, were dismissed and further directions were passed against the judgment debtor.
3. Learned counsel submits that despite having dismissed the earlier objections filed by the same judgment debtor, by the impugned



order, the learned executing court had yet again permitted the same judgment debtor to file further objections to the execution petition.

4. Learned counsel submits that such direction is impermissible in law, having regard to the fact that the dismissal of the earlier objections have not been challenged by the judgment debtor before the appellate forum. On that basis, Ms. Sadaf submits that the impugned order has been passed contrary to the procedure prescribed under law.

5. Issue notice. Upon petitioner taking steps within a week, notice may be served through all permissible modes. Additionally, through learned counsel appearing for the respondent /judgment debtor before the learned Executing Court.

6. Reply, if any, be filed within four weeks from the date of service. Rejoinder thereto, if any, be filed within four weeks thereafter.

7. In the meanwhile, the directions permitting the respondent /judgment debtor to file further objections to the execution shall remain stayed till the next date of hearing.

8. List on 03.10.2023.

TUSHAR RAO GEDELA, J

APRIL 26, 2023/ms