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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
EX.P. 43/2019 & EAs No.363/2019 (objection of Divyarth Kumar) &
365/2019 (objection of Ritu Kumar)
RAJEEV KUMAR BATRA Decree Holder

Through: Mr. Rishabh Bansal and Mr. Ajay
Arjun Sharma, Advs.

Versus

KEWAL KRISHAN KUMAR Judgement Debtor
Through: Mr. Narendra M. Sharma and Mr.
Siddhartha Jain, Advs.
Mr. Ankur Sood and Mr. Ankush
Bhardwaj, Advs. for objector.

AND

+ EX.P. 44/2019 & EAs No.366/2019 (objection of Ritu Kumar) &
367/2019 (objection of Divyarth Kumar)
SAMEER BHUTANI Decree Holder

Through: Mr. Rishabh Bansal and Mr. Ajay
Arjun Sharma, Advs.

Versus

KEWAL KRISHAN KUMAR Judgement Debtor
Through: Mr. Narendra M. Sharma and Mr.
Siddhartha Jain, Advs.
Mr. Ankur Sood and Mr. Ankush
Bhardwaj, Advs. for objector.

CORAM:

HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW

ORDER

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31.10.2019

16.10.2019

1. On 16th October, 2019, EAs No.363/2019 and 365/2019 in EX.P. No.43/2019 and EAs No.366/2019 and 367/2019 in EX.P. No.44/2019 filed in these two Execution Petitions being objections to the attachment ordered of immovable properties were heard and the order dictated in open Court. However, while correcting the order, mention was also made of Section 53

EX.P. 43/2019 & EX.P. 44/2019

Page 1 of 2



of the Transfer of Property Act, 1882 and which provides for enquiry thereunder to be by way of a separate suit and liberty therefor was granted to the decree holder. However, I have come across some judgments which have held that the defence under Section 53 of the Transfer of Property Act enquiry can be adjudicated in objections under Order XXI Rule 58 of the Code of Civil Procedure, 1908 also. It thus appears that the plea of the decree holder, of the transfer effected by the judgment debtor of his share in the property in favour of his son being fraudulent within the meaning of Section 53 of the Transfer of Property Act, can be investigated in these Execution Petitions also. However, since the counsels had not been heard on the said aspect, though the order is ready, the matter was got re-listed today for hearing.

2. The counsel for the objectors in EAs No.363/2019 and 365/2019 and EAs No.366/2019 and 367/2019 seeks time to address.
3. List on 6th December, 2019.
4. It is clarified that the attachment ordered on 10th May, 2019 of property No.E-202, Ramesh Nagar, New Delhi continues.
5. The counsel for the objectors, on request, is also permitted to file rejoinder to the reply of the decree holder before that date.

RAJIV SAHAI ENDLAW, J.

OCTOBER 31, 2019
/OCTOBER 16, 2019
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