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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ EX.P. 62/2021 & EX.APPL.(OS) 272/2023, EX.APPL.(OS) 145/2024
ANIL KUMAR LUTHRA & ANR.Decree Holders
Through: Mr. Anuj Kumar and Mr. Imon
Bhattacharya, Advs.

versus
PARTIK ARORA & ORS.Judgement Debtors
Through: Mr. Harsh Yadav and Mr. Shashank
Shri Tripathi, Advs. for JD-1 to 3.

CORAM:
HON'BLE MR. JUSTICE VIKAS MAHAJAN

ORDER

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16.08.2024

1. The present execution petition has been filed by the Decree Holder seeking execution of decree dated 15.09.2019.
2. The present objections have been filed by the Judgment Debtor no.2 under Section 47 CPC. One of the contentions raised by the learned counsel for the Judgment Debtors is that the Civil Court was not having the jurisdiction to entertain the subject matter of the suit, in view of the specific bar contained in Section 79 of the Real Estate Regulatory Authority (RERA) Act.
3. He submits that since the Civil Court was lacking the jurisdiction, therefore, the decree passed is a nullity and cannot be executed. He further submits that such an objection can be taken by the Judgment Debtors even at the stage of execution.
4. On the other hand, the learned counsel for the Decree Holder submits that the principle of waiver and constructive *res-judicata* will apply at the subsequent stage of execution, in as much as, at the initial stage of



execution, the Judgment Debtor had given no objection to sell the property and had not raised any objection to the effect that the decree passed by the Civil Court is a nullity.

5. He further submits that the present application has been filed only to delay the present proceedings and to frustrate the decree passed in favour of the Decree Holder.

6. Let a short note of submissions be filed by the parties along with the relevant judgments they seek to rely upon in support of their respective contentions, within a period of two weeks.

7. List on 24.09.2024.

VIKAS MAHAJAN, J

AUGUST 16, 2024/dss