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

+ **RFA 703/2023 & CM APPL. 45326/2023 (stay)**

MRS KANCHAN BATRA

.....Appellant

Through: Ms. Sangeeta Chandra, Advocate
(DHCLSC)

versus

SHRI NARENDER KUMAR ANAND AND ANR.Respondents

Through: Respondents in person (*through video conferencing*)

CORAM:

HON'BLE MR. JUSTICE GIRISH KATHPALIA

ORDER

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23.01.2025

[Physical Hearing/Hybrid Hearing (as per request)]

**CM APPL. 48612/2024 (for modification of order dated 01.09.2023) &
CM APPL. 51834/2023 (for directions)**

1. In compliance with order dated 03.01.2025 of the Hon'ble Supreme Court, hearing earlier fixed for 29.01.2025 was preponed to this date.
2. I have heard the respondents for more than one hour. The e-file consists of 1474 pages. But it seems that respondents did not take e-inspection and the marked pages are not in sequence since the same were filed by the parties at different stages. Therefore, the respondents could not point out any specific document in support of their contention that the appellant concealed documents from this Court.
3. Further, since there are certain legal issues involved, the respondents were asked to call their counsel, who drafted the applications. But the respondents stated that they have discharged their counsel and do not have



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money to engage another counsel. The respondents were also offered free legal aid counsel, but they refused to accept the offer and requested that the pending applications may be heard and disposed of.

4. It is under this backdrop that I have heard learned counsel for appellant as well as respondents in person, assisted by their son.

5. It would be apposite to extract order dated 01.09.2023 of the predecessor bench, which is as follows:

“RFA 703/2023

1. This is an appeal seeking to set aside the judgment and decree dated 29.04.2023 passed by learned ADJ-02, East, Karkardooma Courts, Delhi in CS/2224/2016 titled “Sri Narender Kumar Anand & Anr. vs. Mrs. Kanchan Batra”.

2. The suit of the respondent was decreed to the tune of Rs. 25,25,000/- i.e. the amount of Rs. 12,00,000/- (plus interest) and Rs. 8,00,000/-, along with interest at 21% per annum.

3. It is stated by Ms. Chandra, learned counsel for the petitioner that in the present case, the learned ADJ had failed to appreciate that there were discrepancies in the lease deed which have not been adverted to by the learned ADJ.

4. In addition, the interest awarded is at the rate of 21%, which is exorbitant and cannot be given at any cost.

5. In addition, the ADJ has also imposed a cost of Rs. 10 lakhs on the appellant as “exemplary cost”, attributing greed and her intention to retain the amount payable by her to the respondent.

6. It has come in evidence that twice the appellant had offered to make the payment of the complete amount, the first time for Rs. 20 lakhs, and the second time for an enhanced amount of Rs. 25 lakhs.

7. As per the judgment, the principal amount was Rs. 12 lakhs along with interest at the rate of 1.75% i.e. Rs. 21,000/- per month (loan amount) and Rs. 8 lakhs (security amount). On the said amount, the learned ADJ has granted interest at the rate of 21% per annum.

8. Prima facie, the said interest seems to be exorbitant. However, these are issues which will be decided when the appeal is to be heard.

9. Issue notice. Mr. Nagpal, learned counsel for the respondent accepts notice.

10. For the reasons stated in the appeal, the appeal is “Admitted” and shall be listed in due course.



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CM APPL. 45326/2023

11. *This is an application seeking stay of the impugned judgment dated 29.04.2023.*

12. *As per the case of the respondent, the principal amount advanced to the appellant was Rs. 20 lakhs and the balance amount of Rs. 5,25,000/- is interest, along with additional interest at the rate of 21% per annum.*

13. *The interest prima facie seems to be exorbitant.*

14. *For the said reasons, subject to the appellant depositing Rs. 8 lakhs within 20 days from today and balance Rs. 12 lakhs within 8 weeks from today, the effect and operation of the judgment dated 29.04.2023 and execution No. 43/2023 pending before learned ADJ shall remain stayed.*

15. *As per the judgment of 29.04.2023, the learned ADJ has imposed cost of Rs. 10 lakhs on the appellant, while dismissing the application u/s 340 Cr.P.C. filed by her.*

16. *The learned ADJ has imposed cost on the ground that the appellant has been greedy and did not return the amount to the respondent.*

17. *Prima facie, it seems that the learned ADJ failed to appreciate that the appellant had offered twice to return the money as she was interested in selling the subject property.*

18. *For the said reasons, till the next date of hearing, the direction of imposition of costs shall also remain stayed.*

19. *Reply, if any, be filed within 4 weeks from today.*

20. *Let the TCR be requisitioned in digitized form.*

21. *The respondent is at liberty to withdraw the amount of Rs. 20 lakhs deposited in Court on furnishing security to the satisfaction of the Registrar General.*

22. *List on 22.01.2024.*

JASMEET SINGH, J

SEPTEMBER 1, 2023/DM”

{emphasis supplied}

6. The present applications have been filed by the respondents in context with the above extracted order. Admittedly, the amount of Rs. 20,00,000/- has already been deposited with the registry of this Court by the appellant.

7. Through CM APPL. 48612/2024, the respondents seek modification of the above order by deleting the condition of furnishing security to the satisfaction of the Registrar General for withdrawal of Rs. 20,00,000/-



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deposited in this court by the appellant. In support of this application, it is argued by respondents that the said amount of Rs. 20,00,000/- is their own money, so they cannot be called upon to furnish security for release of the same to them. This contention of respondents fails to convince. For, if ultimately the appellant succeeds in the appeal, the said amount would have to be returned to her and it is for that purpose that the respondents while being permitted to use that money are called upon to furnish security. Therefore, the condition to submit security for release of the said amount cannot be deleted. CM APPL. 48612/2024 is dismissed.

8. Through the other application, CM APPL 51834/2024, the respondents seek to restrain the appellant from creating third party interest in her immovable property or to direct her to deposit the complete decretal amount. On this application, the respondents contend that it is the entire decretal amount inclusive of interest component. As extracted above, the predecessor bench has already taken a view that rate of interest as 21% per annum seems to be exorbitant, therefore only Rs. 20,00,000/- were directed to be secured. One of the reasons for holding the rate of interest to be exorbitant is that it came in evidence that the appellant had twice offered to pay the complete amount, viz Rs. 20,00,000/- for the first time and enhanced amount of Rs. 25,00,000/- on the second time. Therefore, I find no reason to modify order dated 01.09.2023 in order to encumber the appellant with a restraint order not to create third party interest in her immovable property or to direct her to deposit with this Court the interest component, which has already been found to be exorbitant. The application CM APPL 51834/2024 is dismissed.



RFA 703/2023

9. Now that both applications of respondents have been disposed of, in view of order dated 01.09.2023, the appeal be listed in the category of Regular Matters, to be heard at its turn.

GIRISH KATHPALIA, J

JANUARY 23, 2025/rk

Click here to check corrigendum, if any