



\$~69(Appellate)

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

+ EX.F.A. 18/2022 & CM APPL. 43015/2022-Ex.
CM APPL. 43016/2022-Interim relief

RAJESH KUMAR

..... Appellant

Through: Mr. Chetan Lokur, Mr.Vaibhav
Kaul and Mr.Satish Kumar, Advs.

versus

RAJESH KUMAR

..... Respondent

Through: None

CORAM:

HON'BLE MR. JUSTICE C. HARI SHANKAR

ORDER

% **28.09.2022**

CM APPL. 43015/2022(exemption)

1. Exemption allowed, subject to all just exceptions.
2. The application stands disposed of.

EX.F.A. 18/2022 & CM APPL. 43016/2022 (stay)

3. Mr. Chetan Lokur, learned Counsel for the appellant submits that there is an error in the impugned order dated 22nd July 2022, to the extent it records that the sale deed, in respect of the property forming subject matter of the present proceedings was executed on 13th June 2013. He submits that the property had actually been conveyed *vide* registered sale deed dated 13th June 2013 which was four months even prior to initiation of the arbitral proceedings which were initiated *vide* Section 21 notice dated 16th October 2013, which resulted in the Award dated 21st November 2015 forming subject matter of the



execution proceedings. As such, he submits that this case could not even be hit by Section 52 of the Transfer of Property Act, as the principle of *lis pendens* would not apply.

4. In that view of the matter, he submits that, without impleading the subsequent purchaser of the property, the impugned order could not have been passed.

5. Issue notice, returnable on 14th December 2022.

6. Notice be served on the respondent by all modes including *dasti* as well as through learned Counsel who appears on behalf of the respondent before the learned executing court.

7. Reply, if any, be filed within four weeks, with advance copy to learned Counsel for the petitioner who may file rejoinder thereto, if any, within four weeks thereof.

8. Till the next date of hearing, the proceedings in Execution No. 107/2016 shall remain stayed.

C. HARI SHANKAR, J

SEPTEMBER 28, 2022/kr