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

+ RC.REV. 200/2025

GAFOOR AHMAD

.....Petitioner

Through: Mr. Sanjay Rathi, Mr. Sanchit Jaglan, Mr. Parth Khatri and Ms. Anjali Dhingra, Advs.

versus

MOHD YAQUB MALIK

.....Respondent

Through: None

CORAM:

HON'BLE MR. JUSTICE SAURABH BANERJEE

ORDER

03.12.2025

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CM APPL. 76021/2025 (*Exemption*)

1. Allowed, subject to all just exceptions.
2. The present application stands disposed of.

CM APPL. 76020/2025 (*Stay*)

3. By virtue of the present application, the petitioner is seeking stay of the execution proceedings in EX. No.1857/2025 (*Execution Petition*) titled '*Yaqub Malik vs. Gafoor Ahmed*', pending before the learned ARC-02, Central Tis Hazari Courts, Delhi (*learned Executing Court*).

4. Learned counsel for the petitioner commences arguments by drawing the attention of this Court to the order dated 11.08.2025, which is reproduced as under:-

"Pursuant to last order dated 21.07.2025, the learned Local Commissioner has filed Report dated 08.08.2025.



2. *Mr. Sanjay Rathi, learned counsel appearing for the petitioner points-out, that the learned Local Commissioner's report has clarified that premises bearing Nos. 2144/5 and 2144/40 are different and distinct premises. A site plan marking-out the contours of the two properties has also been appended to the report.*

3. *As recorded in order dated 21.07.2025, Mr. Rathi points-put that the eviction petition relates to property bearing No.2144/5 situate in Ahata Mir Bukhari, Turkman Gate, Delhi; but the petitioner is in use and occupation of the property bearing No. 2144/40.*

4. *Mr. Rathi accordingly submits, that the operation of the eviction order be stayed insofar as the property bearing No. 2144/40 is concerned for the various reasons inter-alia as recorded in the last order.*

5. *Learned counsel appearing for the respondent via video-conferencing disputes the correctness of the site plans appended to the Local Commissioner's report. The respondent is at liberty to file objection to the Local Commissioner's report; with copy to the opposing counsel.*

6. *In view of the above, it is directed that no action in relation to premises bearing No. 2144/40 shall be taken pursuant to the impugned eviction order, till the next date of hearing before this court.*

7. *Re-notify on 17th October 2025."*

5. He further submits that since the Execution Petition was initiated by the respondent prior thereto, and as recorded in order dated 04.08.2025, since the same was filed within a period of two years from the date of judgment i.e. 25.01.2025, in light of *Order XXI rule 22* of the Code of Civil Procedure, 1908 (**CPC**) the service of the petitioner was dispensed with.

6. Thereafter, the petitioner, on coming to know of the execution



proceedings, immediately moved an application under *Section 151* of the CPC in order to get the Execution Petition dismissed alongwith the relevant copies of the order(s) passed by this Court in the present proceedings, however, the same was dismissed by the learned Executing Court on 26.11.2025, primarily, since the application was under a wrong provision of law as also as per the learned Executing Court, the order dated 11.08.2025 was a direction *qua* premises bearing no.2144/40.

7. In view of the change of circumstances which have evolved during the pendency of the present petition, as also, considering the specific recording in *paragraph no.2* of the order dated 11.08.2025 passed by this Court, wherein it has been recorded that “... .. *the learned Local Commissioner’s report has clarified that premises bearing Nos. 2144/5 and 2144/40 are different and distinct premises... ..*” it would be in the interest of justice as this is a fit case for staying the Execution Petition arising out of the impugned order dated 25.01.2025.

8. Accordingly, till the next date of hearing, further proceedings in EX. No.1857/2025, arising out of impugned order dated 25.01.2025, is stayed.

9. Upon the petitioner taking requisite steps within a period of *one week*, issue notice to the respondent by all permissible modes, returnable on 20.01.2026, the date already fixed.

10. Reply, if any, be filed by the respondent within a period of *three weeks*. Rejoinder thereto, if any, be filed within a period of *two weeks* thereafter.

SAURABH BANERJEE, J

DECEMBER 3, 2025/Ab