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

+ **EX.P. 60/2024**

SHRI SANJEEV JOON

.....Decree Holder

Through: Mr.Naresh K Daksh, Advocate.

versus

SHRI SURENDER BASOYA & ANR.

.....Judgement Debtors

Through: Mr.Abhay Kumar, Advocate.

+ **EX.P. 61/2024**

SHRI SANJEEV JOON

.....Decree Holder

Through: Mr.Naresh K Daksh, Advocate.

versus

SHRI SURENDER BASOYA

.....Judgement Debtor

Through: Mr.Abhay Kumar, Advocate.

CORAM:

HON'BLE MR. JUSTICE PURUSHAINDR KUMAR KAURAV

ORDER

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24.04.2025

EX.APPL.(OS) 671/2025 (under Order XXI Rule 97) in EX.P. 60/2024

EX.APPL.(OS) 668/2025 (under Order XXI Rule 97) in EX.P. 61/2024

1. Heard learned counsel appearing on behalf of the decree-holder.
2. The decree-holder in EX.APPL.(OS) 671/2025 prays for the following relief:-

a) to pass an appropriate Order thereby directing and allowing the Court Bailiff to break open the lock and door of the Property and also to take

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Police Assistance for taking over possession of the Property and also removing the obstructions and also Judgement Debtor, his family members, associates, relatives or any other person claiming on their behalf from the said property i.e. Plot of land measuring 270 sq. yards (225 sq. meters) out of Plots measuring 400 sq. yards (335 sq. meters) bearing Property No. 62-A/1 and adjoining Plot measuring 400 sq. yards (335 sq. meters) of Khasra No. 136/1/2 (Min) at Village Garhi Jharia Maria, New Delhi-1 10065, specifically a house built therein and in occupation of the Judgement Debtors and their family members, and to deliver the possession to Decree Holder.”

3. The decree-holder in EX.APPL.(OS) 668/2025 prays for the following relief:-

“a) to pass an appropriate Order thereby directing and allowing the Court Bailiff to break open the lock and door of the Property and also to take Police Assistance for taking over possession of the Property and also removing the obstructions and also Judgement Debtor, his family members, associates, relatives or any other person claiming on their behalf from the said property i.e. Plot of land measuring 230 sq. yards out of Plots measuring 400 sq. yards situated in Khasra No. 136/1/2 (Min) at Village Garhi Jharia Maria, New Delhi-110065, and to deliver the possession to Decree Holder.”

4. Learned counsel appearing on behalf of the judgment-debtors submits that he be granted another opportunity to file the reply. He contends that his application is pending in the instant matter, whereby, he challenged the maintainability of the instant petitions itself. Additionally, he contends that there is an appeal pending before the Division Bench of this Court and if the aforesaid proceedings are decided in his favour, he would be unable to reap the benefits thereof. Under these circumstances, he requests that some time be granted to file the reply.

5. I have considered the aforesaid submissions and also perused the record.

6. The order passed by this Court dated 30.01.2025 reads as under:-

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"1. The submission of learned counsel for the judgment debtor to the effect that the Division Bench vide order dated 31.05.2024 has stayed the proceedings of this Court is completely misplaced, as the order clearly states that any steps taken in the matter will be subject to the outcome of the appeal. It does not mean that the proceedings of the Executing Court have been stayed by the Division Bench or the Executing Court is restrained to take further steps in accordance with law.

2. Both the execution applications relate to the execution of the judgment and decree dated 04.03.2024 wherein, a decree for declaration was passed.

3. The possession of the above properties requires to be handed over to the decree holder in terms of the judgment and decree.

4. It is seen that despite various opportunities the judgment debtor has not taken any steps neither any plausible explanation has been offered.

5. The details of property in EX.P. 60/2024 are as under:-

"Plot of land measuring 270 sq. yards (225 sq. meters) out of Plots measuring 400 sq. yards (335 sq. meters) bearing Property No. 62- A/I and adjoining Plot measuring 400 sq. yards (335 sq. meters) of Khasra No. 136/1/2 (Min) at Village Garhi Jharia Maria, New Delhi- 110065"

6. The details of property in EX.P. 61/2024 are as under:-

"Plot of land measuring 230 sq. yards out of Plots measuring 400 sq. yards situated in Khasra No. 136/1/2 (Min) at Village Garhi Jharia Maria, New Delhi-110065."

7. In view of the aforesaid, let the matter be placed before the Joint Registrar on 03.03.2025 for appointment of the Bailiff for taking over the possession of the proper in question to be handed over the decree holder."

7. It is thus seen that thereafter the matter was taken up on an application bearing EX.APPL. (OS) 223/2025 filed on behalf of the judgment debtors, seeking stay of the execution proceedings.

8. The Court vide order dated 06.02.2025, found that the application filed by the judgment debtors lacked merit. In light of the observations made

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in the order dated 30.01.2025, the Court noted that the Division Bench had not stayed the execution proceedings but had only observed that any steps taken would be subject to the outcome of the appeal.

9. The matter was thereafter taken up on 06.03.2025 and notice was directed to be issued. Thereafter the matter was taken up on 02.04.2025, wherein, inadvertently, certain typographical errors occurred and the same were rectified *vide* order dated 04.04.2025. The matter was next called out on 22.04.2025.

10. On the overall conspectus of the facts and circumstances, the Court finds that the judgment debtors have made repeated attempts to delay the execution proceedings. As per the Court's order dated 30.01.2025 the possession of the suit property, deserves to be handed over without further delay.

11. With respect to the submissions made by the learned counsel for the judgment-debtors, who argued that certain applications are still pending and the matter is before the Division Bench, needless to state that the Division Bench has already clarified that any proceedings during this period would remain subject to its further directions. Therefore, the order of the Division Bench applies in full force.

12. Accordingly, the Court finds that in the interregnum, the prayers made in the instant applications deserve to be accepted; and accordingly, the bailiff is directed to break open the lock and door of the suit properties and also to take police assistance for taking over possession of the property and to also remove the obstructions in handing over the possession to the decree-holder.

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13. Let fresh warrants of possession be issued in both the execution petitions by the concerned Joint Registrar within three working days.
14. Let a copy of this order be sent to the concerned SHO, South-East District for necessary action and compliance.
15. Applications stand disposed of.

PURUSHAINDRA KUMAR KAURAV, J

APRIL 24, 2025

Nc/sph

Click here to check corrigendum, if any

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