



\$~78

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

+ **FAO 298/2023**

ABHISHEK OBEROI

..... Appellant

Through: Mr. K.K. Sharma, Sr. Adv. with Mr.
Shrey Shrivastava, Mr. Ram Pravesh
Rai, Advs.

versus

BONNY CHOPRA AND ORS.

..... Respondents

Through: Ms. Gita Dhingra, Adv. for R-1

CORAM:

HON'BLE MS. JUSTICE SHALINDER KAUR

ORDER

%

16.04.2024

CM APPL. 22423/2024—filed by appellant for stay

1. The present application has been filed on behalf of the applicant/appellant under Order XLI Rule 5 read with Section 151 of Code of Civil Procedure, 1908 (hereinafter referred as “CPC”) seeking stay of the execution proceedings.
2. It is submitted on behalf of the counsel for applicant/appellant that in the present appeal the order dated 23.09.2023 is impugned whereby the applications filed by the applicant/appellant under Order IX Rule 13 CPC and Section 5 of the Limitation Act, 1963 seeking condonation of delay in filing the said application were dismissed.
3. It is submitted on behalf of the counsel for applicant/appellant that the parties were referred to Mediation before SAMADHAN- Delhi High Court



Mediation and Conciliation Centre for exploring the possibility of amicable settlement. During the pendency of mediation proceedings the execution application was not proceeded with before the learned Execution Court however, the mediation failed on 08.04.2024 and on 09.04.2024 the learned Execution Court fixed the matter before learned Administrative, Civil Judge, Tis Hazari Delhi (hereinafter referred as “ACJ”) for 29.04.2024.

4. Learned counsel for the applicant/appellant submits that there is urgency in the matter as the *bailiff* seeking attachment of the movable properties of the applicant/appellant herein has been appointed by the learned Execution Court on 09.04.2024 and the decree holder has been directed to appear before the learned ACJ on 29.04.2024.

5. It is submitted on behalf of the applicant/appellant that the decree has been passed ex-parte against the petitioner herein along with two other persons who are arrayed as defendants before the learned Trial Court and the decree has been obtained by playing fraud upon the court. Learned counsel further submits that in these circumstances the order dated 09.04.2024 passed by the learned Executing Court as well as the order dated 15.03.2021 be stayed in the meanwhile. It is further submitted that applicant/appellant is willing to deposit 50% of the principal amount within a week before the learned Executing Court.

6. The submissions are opposed on behalf of the non-applicant/respondent submitting that as on date the total liability is around Rs. 28, 00,000/- with interest recoverable from the applicant/appellant and the other defendant in the case.

7. Having considered the submissions of the parties, the applicant/appellant is directed to deposit 50% of the principal amount before



the learned Executing Court within a week from today and the learned Executing Court shall keep the amount in interest bearing FDR to be renewed from time to time. Subject to aforesaid deposit, the orders dated 09.04.2024 and 15.03.2021 are stayed till the next date of hearing.

8. The application stands disposed of.

FAO 298/2023 and CM APPL. 22429/2024—filed by appellant to send the forged receipt allegedly bearing signature of parties for the opinion of a handwriting expert to FSL

9. List on date already fixed i.e., 25.07.2024.

SHALINDER KAUR, J.

APRIL 16, 2024
SU