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

+ **CONT.CAS(C) 1214/2024**

NARESH KHER

.....Petitioner

Through: Mr. Anunaya Mehta, Advocate.

versus

S. JAGJIT SINGH

.....Respondent

Through: Nemo.

CORAM:

HON'BLE MS. JUSTICE SWARANA KANTA SHARMA

ORDER

% **06.08.2024**

CM APPL. 44588/2024 (exemption)

1. Allowed, subject to all just exceptions.
2. Application stands disposed of.

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3. The present contempt petition has been filed under Article 215 of the Constitution of India read with Sections 12 & 14 of the Contempt of Courts Act, 1971 on behalf of the petitioner Naresh Kher against the respondent S. Jagjit Singh seeking the following reliefs:-

“i. Initiate proceedings for contempt against the Respondent for continuous wilful disobedience and disregard of orders dated 11.03.2019 and 03.02.2022 passed by this Hon’ble Court in EX. F.A. No. 5 of 2019;
ii. Convict the Respondent for contempt of court and punish him accordingly;
iii. Enforce the Orders and direct the Respondent to restore status quo with respect to the suit property as per the Orders; and”

4. Learned counsel for the petitioner states that this Court, while issuing



notice in the Execution Appeal i.e. EX.F.A. No. 5 of 2019, *vide* order dated 11.03.2019 had directed that no third party interest shall be created in the suit property i.e. SFS Flat No. 169, (Duplex) Category-III, Munirka Vihar, JNU, New Delhi, by the respondent herein till the next date of hearing. It is stated that the said order has been continued from time to time thereafter. It is further stated that this Court, by way of a detailed order dated 03.02.2022, had formed a *prime facie* opinion that the execution of the Decree would not be permissible in the interim in the manner as done by the Executing Court. Various directions were passed by the Court by way of the said order, including a direction reinforcing the earlier direction already in force, that all parties shall maintain the status *quo* in respect of title and possession of the suit property and shall not create any third-party interest in the suit property. It is argued that resultantly, all parties were required to maintain status *quo* in respect of both title and possession, and the respondent was prohibited from creating any third party interest in the suit property.

5. It is further stated that the order dated 03.02.2022 was challenged by the respondent herein before the Hon'ble Supreme Court in *SLP(C.) 4334/2022* titled as '*S. Jagjit Singh v. Naresh Kher & Ors.*' and the Hon'ble Supreme Court *vide* order dated 14.05.2024 had sustained the order passed by this Court on 03.02.2022 with the limited modification, staying that part of the order where this Court had directed the petitioner to hand-over the keys of the suit property and deposit the same with the Registrar General of this Court.

6. It is pointed out by the learned counsel for the petitioner that despite clear orders passed by this Court on two occasions, the petitioner recently received information from neighbours that some people had occupied the



suit property as lessees of the respondent herein. The petitioner himself then urgently visited the suit property on 13.07.2024 to ascertain the state of affairs and upon reaching the suit property, he had made enquiries with the people who had occupied the same and had discovered to his shock and dismay that the respondent had leased out the suit property to some people which, it is argued, is in complete violation of the interim orders passed by this Court. It is further submitted that the petitioner had also prepared some videos of his interactions with said people i.e. third parties, who were occupying the suit property and the said persons admitted that they are occupying the suit property as lessee and the respondent is the lessor. It is thus submitted on behalf of the petitioner that the respondent could not have introduced any third party into the suit property and all actions on his part of having leased the property to third-party is in complete violation of the orders dated 11.03.2019 and 03.02.2022 of this Court. It is accordingly prayed that the contempt notice be issued against the respondent for violation of the above orders of this Court.

7. During the course of arguments, learned counsel for the petitioner made an oral prayer that to ascertain the current and exact status of the suit property, i.e. whether the same has been occupied by some third party, a Local Commissioner may be appointed by this Court, though the fee of such Local Commissioner may be nominal, considering the old age of the petitioner herein.

8. Issue notice to the respondent/contemnor by all permissible modes, including electronically, returnable for the next date of hearing.

9. In the meanwhile, this Court is of the opinion that it would be in the interest of justice to appoint a Local Commissioner, as prayed by learned



counsel for petitioner, to ascertain the current status of the suit property and as to who is residing in the same, in order to determine whether there is any contempt of the orders of this Court. Accordingly, Mr. Anish Dewan, Advocate (Mobile No. 9999571081) is appointed as the Local Commissioner.

- i. The Local Commissioner is directed to visit the suit property i.e. SFS Flat No. 169, (Duplex) Category-III, Munirka Vihar, JNU, New Delhi within a period of one week from today, and ascertain as to who is residing in the suit property and in what capacity.
 - ii. The Local Commissioner shall be at liberty to take appropriate photographs and prepare videos of the suit property and the persons residing at the same.
 - iii. Learned counsel for the petitioner or any other counsel on his behalf may also accompany the Local Commissioner to the suit property.
 - iv. The concerned SHO/Incharge of Police Station is directed to give necessary assistance/protection to the Local Commissioner to ensure that no untoward incident happens during the execution of present commission.
 - v. Local Commissioner shall file his report before this Court within two weeks from the date of execution of commission.
 - vi. The fee of the Local Commissioner is fixed at Rs.45,000/- (without deducting TDS), which shall be paid in advance to the Local Commissioner by the petitioner, besides out-of pocket expenses, etc. which shall also be borne by the petitioner.
10. List this matter on 16.10.2024.
 11. Order be given *dasti* under the signatures of the Court Master to the



learned counsel for petitioner.

12. This order shall be uploaded on the website of this Court after a period of ten days from today.

AUGUST 06, 2024/A

SWARANA KANTA SHARMA, J

[Click here to check corrigendum, if any](#)