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* IN THE HIGH COURT OF DELHI AT NEW DELHI

+ CM(M) 3487/2024

AMBOJ KUMARI

.....Petitioner

Through: Mr. Pamod Kumar Tripathi with
Mr. Gulab Singh, Advocates

versus

HARI SARAN

.....Respondent

Through: None.

CORAM:

HON'BLE MR. JUSTICE MANOJ JAIN

ORDER

26.09.2024

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CM APPL. 56790/2024 (exemption)

Exemption allowed subject to all just exceptions.

CM(M) 3487/2024 & CM APPL. 56789/2024 (stay)

1. Petitioner is Judgment Debtor, facing execution in relation to a decree to the tune approximately Rs.16 lacs.
2. It is stated that till date, the Judgment Debtor has already made payment of around Rs.9 lacs.
3. During course of the pendency of the Execution Petition, when the question came whether the dwelling house of the Judgment Debtor could be attached, an objection was raised by the Judgment Debtor that her dwelling unit was protected in view of Section 60(1)(ccc) of CPC. However, the learned Trial Court while relying on *Sujata Kapoor vs. Union of India & Ors.*: AIR Online 2019 Del 2185, disallowed such prayer and has issued warrants of attachment of said house of the



Judgment Debtor.

4. Petitioner has, however, strongly relied upon *Mohinder Singh (since deceased) through LR. And Ors. Vs. Bimal Saxena (deceased) through Assignee Virender Singh & Anr.*: 2024 SCC OnLine Del 6515, wherein it has been observed as under:-

“20. Given this position, as noticed above, on the plain language of Section 60(1)(ccc) of the CPC, we are constrained to rule in favour of the appellants /judgment debtors. The subject property being the appellants’/judgment debtors’ “one main residential house”, it cannot be attached and sold in execution proceedings.”

5. Issue notice to respondent through all permissible modes including dasti, returnable on 13th December, 2024. Notice be also issued through counsel.

6. Till then, no further coercive process be taken with respect to the above said attachment.

7. Copy of the order be given Dasti under the signatures of the Court Master.

MANOJ JAIN, J

SEPTEMBER 26, 2024

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