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

+ **EX.P. 161/2014 and EX.APPL.(OS) 170/2016, 249/2016, 17/2023,  
636/2024**

**YOGESH C SAGAR**

..... Decree Holder

Through: Mr. Uddyam Mukherjee, Mr.  
Swapnil Pattanayak, Mr. Akash  
Moury and Mr. Agnibha Chatterjee,  
Advocates (M: 8860507980).

versus

**MODERN NEW KAPOOR JEWELLERS PVT  
& ANR**

..... Judgement Debtors

Through: Mr Arvind Kumar Gupta, Advocate  
for JD-1 (M: 9911088800).  
Mr. Bhuvan Gugnani and Mr.  
Rupender Sharma, Advocates for  
JD-2 (M: 9810126664).

**CORAM:**

**JUSTICE PRATHIBA M. SINGH**

**ORDER**

% **24.04.2024**

1. This hearing has been done through hybrid mode.

**EX.APPL.(OS) 636/2024 (for recalling the order)**

2. The present execution petition under Order XXI CPC has been filed seeking execution of a decree dated 25th September, 2013 for a sum of Rs. 1,97,00,000/- along with interest at 9% from the date of filing of the suit i.e. 7th August, 2012 till the date of realisation.

3. Vide order 6th February, 2024, this Court directed as follows:-

*3. Vide order dated 18th January, 2019 a detailed order was passed .This Court issued notices to the Judgment Debtors and directed them to provide*



personal information, assets, income, etc. Further, it was revealed that a property was mortgaged and sold, and a significant amount was deposited in a bank account. Subsequently, orders were issued to freeze assets and investigate fund disbursement. Despite the said directions, funds were withdrawn, and explanations provided for said withdrawals were unclear and unsatisfactory. Mrs. Rama Kapoor-Judgement Debtor No. 2 admitted to withdrawing the funds but could not provide details of expenditure. Consequently, this Court issued show-cause notices for potential imprisonment and ordered the appearance of other involved parties. Additionally, further affidavits and information regarding proceedings in other tribunals were requested to be produced in Court.

4. Further, objections to the execution petition were raised by Judgement Debtor no.2 which were taken on record on 17th May, 2019 and reply to the same was filed by the Decree Holder on 23rd September, 2022. However, after the said date, there has been no effective appearance on behalf of the Decree Holder.

5. In this matter since order dated 8th February, 2023 repeated opportunities have been given to the Decree Holder to take instructions. Some of the orders are extracted below.

6. Order dated 8th February, 2023 reads as under:-

“1. The learned counsel for the Decree Holder prays for an adjournment to seek instructions on the affidavits filed by the Judgment Debtor no.2 Mrs. Rama Kapoor as also her sons Mr. Ajay Kapoor and Mr. Sachin Kapoor.

2. At his request, re-list on 23<sup>rd</sup> March, 2023.”

7. Order dated 23rd March, 2023 reads as under:-

“1. The learned counsel for the Decree Holder prays for further time to seek instructions and take requisite steps.



2. At request, re-list on 4<sup>th</sup> August, 2023. ”

8. Order dated 4th August, 2023 reads as under:  
“1. Learned counsel for the decree holder is stated to be held up before another Bench and, therefore, an adjournment is requested.

2. At request, list on 07.12.2023.

3. On the next date, learned counsel for the decree holder will be ready with instructions in terms of the order dated 23.09.2022.”

9. Order dated 7th December, 2023 reads as under:

“1. Today again learned counsel for the decree holder is not available.

2. At request, list on 06.02.2024.

3. It is made clear that no further accommodation will be granted to the decree holder.”

10. Today, Ms. Anuja Mishra, Id. Counsel is appearing on behalf of Decree Holder before the Court and upon being queried as to what are the instructions from the Decree Holder, she submits while appearing virtually that the Id. Counsel wishes to make detailed submissions.

11. Upon further hearing, it appears to the Court that the main Counsel is actually prompting Ms. Mishra in the virtual hearing to seek an adjournment but is refusing to appear before the Court. All through the hearing in the virtual Court, Ms. Mishra is continuously glancing towards a colleague who is sitting with her, and who is not appearing before this Court.

12. It is clear to the Court that the only intention is to get an adjournment. Id. counsel for the Judgement debtors opposes the adjournment.

13. In light of the conduct of the Id. Counsel for Decree Holder, adjournment is granted subject to payment of Rs.1,00,000/- as costs with the Delhi High Court Staff Welfare Fund. The details of the same are as under:-



**Name of the Account:- Delhi High Court Staff Welfare Fund**

**Account No.:- 1553011007442**

**Bank:- UCO Bank, Delhi High Court**

4. This is an application seeking recall of the order dated 6th February, 2024. Ld. Counsel for the Decree-holder apologises for the conduct as recorded in the said order dated 6th February, 2024. He further seeks waiver or recall of the said order.

5. After having considered the matter, the Court does not find any merit in the application. Let the costs be paid within two weeks as a last opportunity.

6. The application is dismissed.

**EX.P. 161/2014 and EX.APPL.(OS) 170/2016, 249/2016, 17/2023**

7. Ld. Counsel for the Decree-holder is stated to have sought instructions in the matter, if so, let an affidavit be filed as to the details of the instructions received.

8. Ld. Counsel for the Decree-holder submits that he is not able to place on record any other property of the Judgment Debtors. Accordingly, Mrs. Rama Kapoor shall remain physically present in Court on the next date of hearing.

9. List on 31st July, 2024.

**PRATHIBA M. SINGH, J.**

**APRIL 24, 2024**

*mr/dn*