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

+ **RFA 49/2025**

AAS MOHD. SAIFI

.....Appellant

Through: Ms. Saumya Tandon, DHCLSC with
Mr. Gaurav Singh Sengar, Adv, Ms.
Tooba Khan, Advocates.

versus

SANJAY KUMAR GOYAL

.....Respondent

Through: Mr. Basab Sengupta, Advocate.

CORAM:

HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA

ORDER

% **22.04.2026**

CM APPL.26410/2026 (Exemption)

1. Exemption allowed, subject to all just exceptions.
2. The Application stands disposed of.

CM APPL. 26409/2026 (stay)

3. Application under Order XLI Rule 5 read with Section 151 CPC has been filed on behalf of the Appellant for stay of the Judgment and decree dated 31.08.2024.
4. It is submitted in the Application that the Warrant of Possession has been issued. Execution No. 239/2024 has been filed in respect of the Judgment and decree dated 31.08.2024. The possession has already been taken over by the Respondent. Thereafter *vide* Order dated 11.03.2026, the Executing Court has issued Warrants of Arrest under Order XXI Rule 41(3) CPC. The coercive steps are being taken against the Appellant and his



Attachment of property and arrest is imminent. It is further submitted that the Appellant is a destitute and homeless, senior citizen, who is barely literate and belongs to a financially weak background.

5. He has already been rendered homeless by his son and is presently taking shelter in a Mosque. The fact that he is penniless is evidenced by the Order dated 12.09.2025 of Executing Court wherein it was recorded that the Bank Account of the Appellant holds Rs. 3/- balance.

6. The matter is being pursued through legal aid and the Appellant has no financial capacity to satisfy the decree. The issuance of warrants of arrest against an indigent and aged person, would cause grave injustice and irreparable harm, defeating the process of justice. A prayer is, therefore, made that the impugned Judgment and decree dated 31.08.2024 be stayed and the Warrants of Arrest being issued against the Appellant, be also stayed.

7. **Learned counsel for the Respondent**, who has appeared on advance notice, states that the possession had already been taken on 16.05.2025. Furthermore, the Appellant is not a pauper as he owns an immovable property but on every date, his son appears to claim a share in the property, without producing document of any kind. It is stated that there is no ground for stay of the Execution Petition.

8. At this stage, learned counsel for the Appellant states that the Appellant is willing for Settlement, through mediation. However, when a query was put as to what are the terms of proposed Settlement, the only response was that he is a pauper and an aged person. Obviously there is no proposal for mediation except that the mesne profits, which are more than Rs.10,00,000/- be waived. In any case, the matter is pending before the



Executing Court and whatever endeavour to make payment or settlement, can be pursued before the Executing Court. Insofar as, the Warrants of Arrest are challenged that the Appellant is at liberty to take appropriate remedy in accordance with law.

9. No ground is made out for stay of the Impugned Judgment and decree dated 31.08.2024.

10. The Application is hereby dismissed and disposed of accordingly.

NEENA BANSAL KRISHNA, J

APRIL 22, 2026/RS