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

+ **RFA 534/2016**

GHANSHYAM DASS GUPTAAppellant

Through: Ms. Kamkshi Garg, Adv.

versus

SHYAM WATI & ORS

.....Respondent

Through: Ms. Shalini Kapoor, Ms. Divyanshi Saxena, Mr. Udit Bhatiani, Ms. Tayabba Borqi, Advs.

CORAM:

HON'BLE MR. JUSTICE PURUSHAINDR KUMAR KAURAV

ORDER

% **19.09.2024**

CM APPL. 39013/2022

1. By way of the instant application, respondent no.1 contends that the order dated 03.08.2016, passed by this Court, has not been complied with.
2. Learned counsel submits that in terms of the aforesaid order, the conditional stay was granted subject to the appellant depositing the decretal amount alongwith the interest accrued therein, till the date of deposition, by way of demand draft in favour of the Registrar General.
3. Learned counsel further submits that on 04.05.2018 the Court noted the default in payments made by the appellant and directed him to deposit Rs. 15000 per month. On 23.05.2019, this Court disposed of the application



being C.M. No. 45465/2018 praying for the vacation of the stay in view of the submissions made by the appellant that he shall comply with the order dated 04.05.2018 and deposit Rs. 15,000/- per month. Learned counsel for respondent no.1 then contends that as on the date of filing of the instant application, the appellant had deposited only a sum of Rs.25,56,840/-. It is further submitted that as per the order dated 04.05.2018, the appellant was to deposit an amount of Rs. 27,52,032/-. According to learned counsel, the appellant is in the arrears of Rs. 1,95,192/- till June, 2022 and is a habitual defaulter for not depositing Rs. 15,000/- per month, regularly.

4. He further contends that the suit property is in dilapidated condition and urgent repairing work needs to be done in order to make it inhabitable. In view of the aforesaid, he prays for the liberty to vacate the interim stay granted vide order dated 03.08.2016 and to execute the judgement and decree dated 28.5.2016.

5. I have heard the learned counsel appearing for the parties and perused the record.

6. On 19.07.2024, the Court afforded an opportunity of hearing to the appellant to explain as to whether the appellant is in compliance of the interim directions passed by this Court. Thereafter, the instant application was taken up for consideration on 20.08.2024 and the appellant was directed to rectify the objections in his affidavit which, according to him, was filed in compliance of the earlier directions.

7. Today again, when the matter is called out, the Court is unable to determine the status of the affidavit on behalf of the appellant and it still remains under objection. In view of the aforesaid, the Court is constrained to pass the following directions:-



- (i) Let the executing court to consider as to whether the appellant is complying with the directions passed by this Court.
- (ii) The appellant, however, shall be at liberty to satisfy the executing Court with respect to the aforesaid aspect.
- (iii) If the executing court comes to the conclusion that the appellant is in default of the conditional order of stay, the said court shall be at liberty to execute the impugned judgment and decree.

8. With the aforesaid directions, the instant application stands disposed of.

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9. Let the main matter be listed in '*Regular list*' in the category of senior citizens as per its seniority.

PURUSHAINDR KUMAR KAURAV, J

SEPTEMBER 19, 2024/KG