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

+ EX.P. 453/2014 & EX.APPLs.(OS) 246/2015, 374/2015, 76/2016,  
323/2019, 207/2020, 2799/2022, 3040/2022, 3661/2022,  
3662/2022, 3673-77/2022.

SATISH KUMAR SETH & ANR ..... Decree Holders

Through: Mr. Asheesh Jain, Mr. Nitika B.,  
Advocates for D-2.

versus

LATE JOGINDER KUMAR SETH & ORS ..... Judgement Debtors

Through: Mr. Anil Kumar Sharma, Mr.  
Apoorv Kumar Sharma, Mr. Anuj  
Sharma, Ms. Jasmine Gill, Ms.  
Meenakshi, Advocates for JD-1A  
to 1E, 2 and 3.

Mr. Manish Sharma, Mr. Ninad  
Dogra, Advocates for JD-5A to  
5C.

**CORAM:**

**HON'BLE MR. JUSTICE PRATEEK JALAN**

**ORDER**

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**03.05.2024**

**EX.APPL.(OS) 205/2021 (for issuing warrants of possession)**

1. This application has been filed by judgment debtor No. 1C for issuing warrants of possession against decree holder No. 2 in respect of *Flat No. 1405, Shivalik Apartment, Kaushambi, Ghaziabad* [“the property”].

2. By the award under execution, the said property was to be divided with a 50% share to decree holder No. 2, and 50% share to judgment debtor Nos. 1A to 1E.



3. Mr. Asheesh Jain, learned counsel for decree holder No. 2, and Mr. Anil Kumar Sharma, learned counsel for judgment debtor Nos. 1 A to 1E, 2 and 3, both deny that they are in possession of the property.

4. Mr. Jain draws my attention to an order dated 16.08.2017, in which a similar controversy had arisen with respect to a different flat. The Court *inter alia* appointed a Local Commissioner to inspect the property and ascertain whether the property is occupied or vacant.

5. With the consent of learned counsel decree holder No. 2 and judgment debtor Nos. 1A to 1E, Ms. Bani Dikshit, Advocate [Tel:- 9810993368] is appointed as Local Commissioner to visit the property, and furnish a report as to whether the property is vacant or occupied. If occupied, the learned Local Commissioner may make enquiries as to the identity of occupants and the capacity in which they are in possession.

6. The learned Local Commissioner will be accompanied by one representative of decree holder No. 2, and one representative of judgment debtor Nos. 1A to 1E, collectively.

7. The remuneration of the learned Local Commissioner is fixed at ₹75,000/- at the first instance, to be shared equally by decree holder No. 2 and judgment debtor Nos. 1A to 1E, collectively.

8. List on 01.08.2024.

**EX.APPL.(OS) 76/2016 (for issuing warrants of possession)**

1. This application has been made by judgment debtor Nos. 5A to 5C, *inter alia* with respect to *Flat No. 1004, Kailash Apartment, Kaushambi Distt. – Ghaziabad, Uttar Pradesh* [“the property”]. The said property falls to the shares of judgment debtor No. 5A to 5C under the arbitral award.



2. It is contended by Mr. Manish Sharma, learned counsel for judgment debtor Nos. 5A to 5C, that possession is with legal heirs of judgment debtor No. 1. However, Mr. Anil Kumar Sharma denies that they are in possession, and states that they have nothing to do with the flat.

3. Mr. Manish Sharma also seeks the appointment of a Local Commissioner to ascertain the status of possession.

4. Mr. Shambo Nandy, Advocate [Tel:- 9748782671] is appointed as a Local Commissioner to visit the property and furnish a report as to whether the property is vacant or occupied. If occupied, the learned Local Commissioner may make enquiries as to the identity of occupants and the capacity in which they are in possession.

5. The learned Local Commissioner will be accompanied by a representative of judgment debtor Nos. 5A to 5C.

6. The remuneration of the learned Local Commissioner is fixed at ₹75,000/- to be paid by judgment debtor Nos. 5A to 5C.

7. List on 01.08.2024.

**EX.P. 453/2014 & EX.APPLs.(OS) 246/2015, 374/2015, 76/2016, 323/2019, 207/2020, 2799/2022, 3040/2022, 3661/2022, 3662/2022, 3673-77/2022.**

List on 01.08.2024.

**PRATEEK JALAN, J**

**MAY 3, 2024/ 'Bhupi'/'**