



\$~30

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

+ EX.P. 96/2018

PARESH DANDONA

.....Decree Holder

Through: Mr.Suhail Dutt, Sr. Adv. with
Mr.Azhar Alam and
Mr.Sankalp Goswami, Advs.

versus

JAHNAVI DUGAL

.....Judgement Debtor

Through: Ms.Jasmine Damkewala,
Ms.Vaishali Sharma,
Ms.Divyam Khera and
Mr.Sunil Choudhary, Adv.

CORAM:

HON'BLE MR. JUSTICE NAVIN CHAWLA

ORDER

% **09.09.2024**

EX.APPL.(OS) 1444/2024

1. This application has been filed by the Objector, Ms.Sukruti Dugal, who had earlier filed the objections to the present execution, being EA(OS) 138/2019, praying for a modification of the Order dated 23.08.2024 passed by this Court.

2. The applicant contends that in view of the Order dated 05.08.2024 passed by the Supreme Court in Civil Appeal No.8532/2024, titled *Sukruti Dugal v. Paresh Dandona & Ors.*, the Judgement dated 22.05.2024 passed by the Division Bench of this Court in FAO(OS) 35/2023, titled *Paresh Dandona v. Sukruti Dugal & Ors.*, cannot act as a reason for dismissing the objections filed by the Objector.



3. The learned counsel for the applicant submits that the Supreme Court, in its Order dated 05.08.2024, has clarified that the observations made by the Division Bench in the abovementioned order being *prima facie*, will not have any bearing on the Suit. She submits that, therefore, the objections filed by the Objector/applicant were to be heard on merits and were to be adjudicated upon by this Court.

4. The learned counsel for the applicant further submits that this Court has not given effect to the judgment dated 16.01.2020 passed by another Division Bench of this Court in RFA(OS) 86/2019, titled ***Sukruti Dugal v. Jahnavi Dugal & Ors.***, whereby the said Division Bench had observed that the effect of the concerned decree between the Decree Holder and the Judgment Debtor herein, who are the maternal uncle and the mother of the applicant herein, shall have to await the trial in the suit filed by the applicant, being CS(OS) 649/2018 titled ***Sukruti Dugal v. Jahnavi Dugal & Ors.***. The learned counsel for the applicant submits that since the abovementioned suit is still pending, the applicant cannot be evicted from the suit premises.

5. The learned counsel for the applicant further submits that the Decree Holder is a resident of New York, USA and is a well renowned doctor. She submits that he is not going to come back to India and, therefore, he does not require the premises in question. She further submits that the applicant has been looking after the Judgment Debtor, her mother, and, therefore, it would also not be equitable to direct the eviction of the applicant.

6. She further submits that in the present execution petition, the



Decree Holder has falsely claimed that the Judgment Debtor did not make any payment in terms of the Decree dated 04.02.2015 passed in CS(OS) 1175/2010. She submits that certain payments, though not completely in terms of the Decree, were made by the father of the applicant to the lawyer of the Decree Holder.

7. She submits that in case the applicant is dispossessed from the property in question, the applicant shall be left remediless and she would be denuded of her rights in the property and she would also not get the money from the judgment debtor, as has otherwise been directed by the Division Bench of this Court in FAO(OS) 35/2023.

8. She submits that the property in question is a HUF property. This has also been admitted by the Decree Holder in a prior suit.

9. The learned counsel for the applicant submits that the applicant should be granted one opportunity to make submissions at length on her objections, and should not be denied this opportunity merely because of the Judgment passed by the Division Bench of this Court in FAO(OS) 35/2023.

10. The learned senior counsel appearing for the Decree Holder denies all the above submissions. He submits that in form of the present application, the applicant is merely trying to seek a review of the Order dated 23.08.2024 of this Court. He submits that all submissions of the applicant have been duly considered by the Division Bench of this Court while passing the Judgment dated 22.05.2024. He submits that the Order dated 05.08.2024 of the Supreme Court does not, in any manner, act as a reason to deny the execution of the decree. He submits that no payment was made by the



Judgment Debtor in compliance with the terms of the consent decree dated 04.02.2015 and the Decree Holder is entitled to the execution of the same.

11. I have considered the submissions made by the learned counsels for the parties.

12. This Court, by its detailed Order dated 23.08.2024, had dismissed the objections of the applicant against the execution of the decree, after considering the effect of the judgment dated 16.01.2020 passed by a Division Bench of this Court in RFA(OS) 86/2019, the judgment dated 22.05.2024 passed by the Division Bench of this Court in FAO (OS) 35/2023, and the order dated 05.08.2024 passed by the Supreme Court in Civil Appeal No.8532/2024. The observations and findings made therein are not being repeated herein for the sake of brevity.

13. In the Judgment dated 22.05.2024 passed by the Division Bench of this Court in FAO(OS) 35/2023, the Division Bench of this Court, after taking note of the order dated 16.01.2020 passed in RFA (OS) 86/2019, specifically directed as under:

“25. To sum up, we have issued the following directions to the parties, in this judgment:

25.1. The impugned judgment dated 09th January, 2023 passed in CS(OS) 649/2018 is set aside and consequently, the ad-interim order dated 21st December, 2018, stands vacated.

25.2. The Appellant is at liberty to proceed with the execution proceedings in Ex. P. 96/2018 to recover the possession of his portion and license fees as per consent decree dated 04th February, 2015. The Appellant is, however, bound down to his statement that on



recovering possession he will not create any third-party rights in his portion till the pendency of the underlying suit.

25.3. The Respondent No. 2 is directed to deposit 2/3rd of the sale consideration (received by her by the sale of the first and second floor of Vasant Vihar property as well as Kailash Hills property), with the Registrar General within four weeks along with interest thereon at 10% per annum from the date of respective sale to secure the interest of Respondent Nos. 1 and 3.”

14. The Supreme Court in its Order dated 05.08.2024 has not interfered with the above-quoted directions. It has merely clarified that the observations made by the Division Bench, being *prima facie* in nature, shall not affect the outcome of the Suit filed by the applicant herein, being CS(OS) 649/2018. The interest of the applicant has been protected by the Division Bench of this Court. In fact, the learned senior counsel for the applicant appearing before the Division Bench, had contended before the Division Bench that the present Execution Proceedings can proceed.

15. As far as the submission of the learned counsel for the applicant that the Decree Holder may not come back to India and has no use of the property or that the applicant may be left remediless as she would not have the opportunity to recover the amount from the Judgment Debtor is concerned, these are not issues which can stall the execution of the decree which has been validly passed between the parties.

16. Similarly, the submission of the learned counsel for the applicant that the father of the applicant has paid certain amounts to the Decree Holder, again, does not act as a bar on the Decree Holder



to execute the decree which has been passed in his favour.

17. The submission of the applicant that the property in question is a HUF property, has also been considered by the Division Bench in its order dated 24.05.2024, and based thereon, interim order has been passed to protect the interest of the applicant. This Court cannot sit in appeal against the said judgment. As noted herein above, in fact, the directions contained in the judgment dated 24.05.2024 have been affirmed by the Supreme Court by not interfering therewith.

18. I find that the present application is a gross abuse of the process of the Court. It is a repeated attempt of the applicant, on one pretext or another, to stall the execution of the Decree, though she has failed in her earlier attempts on the same.

19. Accordingly, the application is dismissed with costs quantified as Rs.3 lacs, to be deposited by the applicant with the *Delhi High Court Clerks' Welfare Fund* within a period of four weeks from today.

20. *Dasti.*

NAVIN CHAWLA, J

SEPTEMBER 9, 2024/ns/SJ

Click here to check corrigendum, if any