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

**Date of decision: 18.09.2026**

# **CNR No. DLHC010289622026**

+ EX.F.A. 55/2026, CM APPL. 63914/2026 (Seeking urgent ad-interim stay of the auction fixed for 21.09.2026) & CM APPL. 63915/2026 (Ex. From filing certified copy of Annexures)

NEETU SINGH @ NITU SINGH .....Appellant

Through: Mr. Avinash Kumar & Mr.  
Pramod Kumar Tiwary, Advs.

versus

ANAND KUMAR & ANR. ....Respondents

Through:

**CORAM:**  
**HON'BLE MR. JUSTICE HARISH VAIDYANATHAN**  
**SHANKAR**

% **JUDGEMENT (Oral)**

1. The present Execution First Appeal, filed under Order XXI Rule 58(4) read with Order XLI of the **Code of Civil Procedure, 1908<sup>1</sup>**, seeks to assail the **Order dated 06.02.2026<sup>2</sup>**, passed by the learned **District Judge-03, North District, Rohini Courts, Delhi<sup>3</sup>**, in **Execution Proceedings, being Ex. Civil 514/2020<sup>4</sup>**, titled “*Anand Kumar v. Kishan*”.

2. By way of the Impugned Order, the learned Executing Court

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<sup>1</sup> CPC

<sup>2</sup> Impugned Order

<sup>3</sup> Executing Court

<sup>4</sup> Execution Petition



dismissed the Objection Petition, preferred by the Appellant under Order XXI Rule 58 of the CPC, against the attachment of the Immovable Property, bearing **Khasra No. 99/16, Pinky Chaudhry Colony, West Kamal Vihar, Burari, Delhi-110084**<sup>5</sup>.

**FACTUAL BACKGROUND:**

3. For the sake of clarity and completeness, and to place the ensuing discussion in its proper perspective, the broad facts giving rise to the present Appeal may be noticed, without entering into an exhaustive narration thereof.

4. The dispute between the **Respondent No.1/Decree Holder**<sup>6</sup> and **Respondent No.2/Judgment Debtor/Husband of the Appellant**<sup>7</sup> arose out of an Agreement to Sell dated 06.05.2018, with respect to an Immovable Property, being **Property admeasuring 85 sq yards out of khasra no. 325 situated in the area of Bhalaswa, Abadi known as Guru Nanak Dev Colony, Near shiv Chowk, Delhi-110042**<sup>8</sup>, on the basis of which proceedings for specific performance were instituted by the Decree Holder against the Judgment Debtor. The said proceedings culminated in a settlement between the parties before the Mediation Centre, pursuant to which a Decree came to be drawn on 16.10.2019.

5. In the course of Execution of the said Decree, the Subject Property came to be attached. The Appellant thereafter preferred the Objection Petition under Order XXI Rule 58 of the CPC on 16.12.2022, asserting that the Subject Property was acquired by her

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<sup>5</sup> Subject Property

<sup>6</sup> Decree Holder

<sup>7</sup> Judgement Debtor

<sup>8</sup> Specific Performance Suit Property



from Respondent No. 2/Judgment Debtor on 24.01.2017, *i.e.*, prior to the Agreement to Sell dated 06.05.2018 between the Decree Holder and the Judgment Debtor, and that she had remained in continuous possession thereof thereafter.

6. The said Objection Petition came to be dismissed by the learned Executing Court by the Impugned Order and, accordingly, the present Appeal came to be instituted.

**SUBMISSIONS ON BEHALF OF THE APPELLANT:**

7. Learned counsel appearing on behalf of the Appellant submits that the learned Executing Court erred in rejecting the Objection Petition merely on the basis of the legal effect of the documents relied upon by the Appellant.

8. Learned counsel for the Appellant submits that the learned Executing Court failed to appreciate that the Appellant had acquired the Subject Property from the Judgment Debtor on 24.01.2017, as evidenced by various documents, *inter alia*, an Agreement to Sell dated 24.01.2017, and had remained in continued possession thereof since then. It is submitted that the transaction between the Decree Holder and the Judgment Debtor, forming basis of the Suit for Specific Performance and, thereafter, the Execution proceedings, was subsequent thereto, having been entered into in 2018. It is submitted that the Appellant's claim, therefore, could not have been rejected without adjudicating the underlying factual controversy and determining the genuineness thereof.

9. Learned counsel for the Appellant further submits that the reliance placed by the learned Executing Court upon ***Suraj Lamp &***



***Industries Pvt. Ltd. v. State of Haryana***<sup>9</sup> in arriving at the aforesaid conclusion is misplaced. It is submitted that, while the said Judgement determines the legal effect of transactions founded upon an Agreement to Sell, GPA and other customary documents, it could not be interpreted as dispensing with an adjudication of the Appellant's claim that a prior transaction had taken place in her favour and that she had acquired possession pursuant thereto.

10. Learned counsel for the Appellant submits that the learned Executing Court, having gone beyond the legal effect of the documents and held the transaction set up by the Appellant to be a sham transaction, ought to have afforded the Appellant an opportunity to establish her case by leading evidence. The questions relating to the execution and genuineness of the documents, the consideration allegedly paid and the Appellant's possession, it is submitted, could not have been conclusively determined without affording such an opportunity.

11. Learned counsel for the Appellant, to buttress the aforesaid submission, places reliance upon the Judgment of this Court in ***Manoj Kumar Shah v. Anand Kumar & Anr.***<sup>10</sup> to submit that where objections under Order XXI Rule 58 CPC give rise to disputed questions requiring evidence, the same cannot be summarily disposed of without affording the objector an opportunity to lead evidence.

12. Learned counsel for the Appellant submits that the aforesaid principle squarely applies to the present case and that the learned Executing Court could not, therefore, have treated ***Suraj Lamp &***

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<sup>9</sup> (2012) 1 SCC 656

<sup>10</sup> 2006:DHC:29346



**Industries Pvt. Ltd. (supra)** as determinative of the Objection Petition while simultaneously returning findings on the genuineness and *bona fides* of the transaction without permitting the Appellant to lead evidence.

13. Learned counsel for the Appellant, in light of the foregoing submissions, submits that the Impugned Order is liable to be set aside on the aforesaid grounds and, consequently, the Objection Petition be allowed, thereby setting aside the attachment proceedings *qua* the Subject Property.

#### **ANALYSIS:**

14. This Court has heard learned counsel for the Appellant and, with his able assistance, perused the material available on record and the Judicial precedents placed across the Bar.

15. Before advertng to the facts of the present case, this Court deems it apposite to reproduce the Impugned Order. It read as under:

“1. Arguments have already been heard. Record is perused carefully.

2. Objector is none but the wife of JD. Prayer for setting aside of the attachment order is made on the ground that objector had purchased property from JD vide GPA, agreement to sell and purchase, affidavit, deed of will, receipt and possession letter all unregistered on 24.01.2017 i.e the day prior to the agreement to sell dated 06.05.2018 qua which suit for specific performance was filed by the DH and decreed in terms of the settlement arrived between then plaintiff/DH and then JD/defendant in mediation on 16.10.2019. So, it is the categorical case of the objector that she derived the title from JD only. The question arises if the title stood transferred in favour of the objector ? The agreement to sell in favour of the objector is in respect of the immovable property and that too valued more than Rs. 100/-. So, as per Section 17 of Indian Registration Act 1908, it requires mandatorily registration. In **Suraj Lamps and Industries v. State of Haryana [183 (2011) DLT 1 (SC)]**, it was held by Hon’ble Supreme Court of India that no title can be conferred upon a party based on unregistered documents. Quoting this, in **IDBI Bank Limited Through DGM**



**(Legal) Vs Official Liquidator, Office of the official liquidator of companies & Anr**, SLP (Civil) No. 5143 of 2018, on 17 October, 2019, Hon'ble Apex Court iterated that the sale of an immovable property can only be effectuated through a sale deed and an agreement to sell does not transfer any right, title or interest in the immovable property. This settled proposition of law is again affirmed in the **The Correspondence, RBANMS Educational Institution vs B Gunashekar & Anr., 2025 INSC 490 (CIVIL APPEAL NO. 5200 OF 2025)** on 16 April, 2025 by Hon'ble Apex Court and it is clarified that an agreement for sale, which also requires to be registered, does not amount to a conveyance as it is merely a contractual document, by which one party, namely the vendor, agrees or assures or promises to convey the property described in the schedule of such agreement to the other party, namely the purchaser, upon the latter performing his part of the obligation under the agreement fully and in time. Recently in under the agreement fully and in time. Recently in **Zoharbee vs Imam Khan (D) thr. Lrs, 2025 INSC 1245 (CIVIL APPEAL CIVIL APPEAL NOS. 4516-4517 OF 2023)** on 16 October, 2025, Hon'ble Supreme Court of India held that any contract of sale (agreement to sell) which is not a registered deed of conveyance (deed of sale) would fall short of the requirements of Sections 54 and 55 of the Transfer of Property Act and will not confer any title nor transfer any interest in an immovable property and according to the Act, an agreement of sale, whether with possession or without possession, is not a conveyance as Section 54 of the Act enacts that sale of immovable property can be made only by a registered instrument and an agreement of sale does not create any interest or charge on its subject matter. Accordingly, no title stood transferred in favour of the objector, so the objector is held holding no interest in the property attached and since admittedly property was lying in the name of JD, the attachment order is held not suffering from infirmity.

3. It is further noted that documents submitted to be executed by JD in favour of the objector also cannot be accepted as executed bonafidely and not to obstruct any process of law as plain reading of the objection itself shows that the averments made therein are self serving in nature and the objector attaches and de-attaches herself with the JD at her convenience. She pleaded that JD fell in debt trap and she herself purchased the property but no document to suggest the transfer of the money is produced on record. She also pleaded that JD left Delhi for his hometown and left the company of objector in 2018 but also pleaded for around one year, JD was using a small portion of the upper ground as his office and he with her remained till March 2018. She continued that both decided to break their marriage tie in 2019 but could not do so



since JD did not return during Covid period. She maintained a complete silence why the ties remained intact even thereafter till date of filing of the objection i.e. 16.12.2022 or even till date. This all only highlights as contended on behalf of DH that the documents presented by objector regarding transaction of purchase of the property from JD are only presenting a sham transaction. Objector has also constantly pleaded the existence of element of coercion, fear, force etc of the JD which was never pleaded by him or could not be pleaded by JD himself. These objections constitute only fresh defence of JD which cannot be considered at all by this Court while executing the decree. Hence, judgments relied upon by Ld. Counsel for objector i.e. (i) Maya Devi Vs. Lalta Prashad, Hon'ble Supreme Court of India (Civil Appeal No 2458/2024) decided on 19.02.2014 (ii) Hmada Ammal Vs. Avadiappa Pathar & Ors, passed by Hon'ble Supreme Court of India, 1991, 1 SCC 715 (iii) Lathil Sreedharan Vs. Chandramaath Balkrishnan & Anr, Supreme Court, 1990, 3 SCC 291 (iv) Mohit Bhargava Vs. Bharat Bhushan Bhargava & Ors. of Hon'ble Supreme Court, 2007 (4 SCC 795) & (v) Ramesh Chand (D) THR. LRs. Vs. Suresh Chand & Anr, 2025 INSC 1059 passed by Hon'ble Supreme Court of India, are held neither applicable under the present facts and circumstances nor of any assistance to the objector.

**4. In view of the above, objections are hereby dismissed.**

Now, put up for further proceedings for **13.03.2026.**"

**(Emphasis supplied)**

16. A perusal of the Impugned Order shows that the learned Executing Court has approached the objections raised by the Appellant from three distinct facets. *Firstly*, it has examined the legal effect of the documents relied upon by the Appellant and held that the same could not confer title upon her in the absence of a registered instrument of conveyance. *Secondly*, it has examined the surrounding circumstances in which the alleged transaction between the Appellant and the Judgment Debtor is stated to have taken place and has found the transaction lacking in *bona fides*. *Thirdly*, it has considered the allegations of coercion, fear and force levelled in relation to the settlement between the Decree Holder and the Judgment Debtor and has held that such allegations could not be permitted to constitute a



fresh defence on behalf of the Judgment Debtor in the execution proceedings. The aforesaid aspects, though arising from the same set of circumstances, require separate consideration.

17. The case set up by the Appellant in her Objection Petition is that she had purchased the Subject Property from the Judgment Debtor, *i.e.*, from her own husband, on 24.01.2017 through a General Power of Attorney, Agreement to Sell and Purchase, Affidavit, Deed of Will, Receipt and Possession Letter. On the strength of the aforesaid documents, the Appellant asserts that she acquired ownership of the Subject Property and that the Judgment Debtor thereafter ceased to have any right, title or interest therein. It is submitted that the occasion to sell arose due to certain debts incurred.

18. The first question which necessarily arises is whether the documents relied upon by the Appellant were, in law, capable of transferring title in the Subject Property in her favour.

19. On this aspect, the learned Executing Court has correctly noticed that the documentary foundation of the Appellant's claim consists of a General Power of Attorney, Agreement to Sell and Purchase, Affidavit, Deed of Will, Receipt and Possession Letter, all of which are unregistered. Admittedly, there is no registered instrument of sale or conveyance executed in favour of the Appellant. The learned Executing Court has, in this regard, primarily relied upon the Judgment of the Supreme Court in ***Suraj Lamp & Industries Pvt. Ltd.*** (*supra*).

20. At this stage, this Court deems it apposite to notice the Judgment of the Hon'ble Supreme Court in ***Suraj Lamp & Industries Pvt. Ltd.*** (*supra*). The Hon'ble Supreme Court has held that transfer of



immovable property by way of sale can only be effected through a duly stamped and registered deed of conveyance and that, in the absence thereof, no right, title or interest in the property is transferred. More specifically, an Agreement to Sell, whether accompanied by possession or otherwise, does not constitute a conveyance and does not, by itself, confer title or create any interest or charge in the property, save for the limited rights contemplated under Section 53-A of the Transfer of Property Act. The relevant observations of the Hon'ble Supreme Court read as under:

**“18.** It is thus clear that a transfer of immovable property by way of sale can only be by a deed of conveyance (sale deed). In the absence of a deed of conveyance (duly stamped and registered as required by law), no right, title, or interest in an immovable property can be transferred.

**19.** Any contract of sale (agreement to sell) which is not a registered deed of conveyance (deed of sale) would fall short of the requirements of Sections 54 and 55 of the TP Act and will not confer any title nor transfer any interest in an immovable property (except to the limited right granted under Section 53-A of the TP Act). According to the TP Act, an agreement of sale, whether with possession or without possession, is not a conveyance. Section 54 of the TP Act enacts that sale of immovable property can be made only by a registered instrument and an agreement of sale does not create any interest or charge on its subject-matter.”

**(Emphasis supplied)**

21. The reliance upon ***Suraj Lamp & Industries Pvt. Ltd. (supra)***, therefore, cannot be characterised as mechanical. The principle, therefore, concerns the legal character and effect of those documents. The fact that the documents dated 24.01.2017 precede the Agreement to Sell dated 06.05.2018 executed between the Judgment Debtor and the Decree Holder cannot therefore, by itself confer upon the Appellant a title.

22. This distinction assumes significance in considering the



principal grievance of the Appellant that the learned Executing Court ought to have framed issues and recorded evidence before dismissing the objections. Evidence becomes necessary where the disputed factual question is material to the relief claimed and its determination can affect the adjudication. Where, however, even the acceptance of the asserted fact in its entirety would not result in the legal consequence claimed, an evidentiary exercise on that fact cannot cure the fundamental legal deficiency in the claim.

23. The question of evidence, therefore, cannot be examined in isolation from the nature of the right asserted by the Appellant. Since the Appellant claims ownership solely on the basis of the documents executed by the Judgment Debtor, and since those documents do not constitute a registered conveyance of the Subject Property, the mere proof of their execution could not result in the Appellant acquiring title thereto. The factum of possession, considered along with the documents, in the present case also does not merit the case going into the trial.

24. It is no doubt true that Order XXI Rule 58(2) of the CPC expressly empowers the Executing Court to determine questions relating to the right, title or interest in the property attached, insofar as such questions are relevant to the adjudication of the objection. The provision, however, does not mandate the recording of oral evidence in every case. The nature and extent of the enquiry must necessarily depend upon the right asserted and the factual foundation on which such right rests.

25. The learned Executing Court has also further examined the surrounding circumstances in which the transaction is alleged to have



taken place. This assumes significance because the Appellant's own pleadings do not rest merely upon the assertion of a prior transaction; they also contain a series of averments concerning the financial circumstances of the parties, their matrimonial relationship and the circumstances in which the Judgment Debtor is alleged to have subsequently entered into the settlement with the Decree Holder.

26. At this juncture, this Court deems it apposite to notice the relevant portions of the Objection Petition filed by the Appellant before the learned Executing Court. The relevant portion thereof read as under:

“6. That the present objector is lawful owner of the property (**as defined under Section 14 of the Hindu Succession Act, 1956** ) and JD has no concern whatsoever with the said property. It is pertinent to mention here that objector has purchased the property from JD after paying entire consideration amount to JD much before any agreement between JD and DH and much before filing of suit for specific performance against the property of different location falling under different jurisdiction for which execution petition is pending. The objector has also entered into an agreement with Tower Vision India private Ltd to erect a tower on the roof of the building and Tower Vision India private Ltd is deducting TDS of objector since April 2018 before the agreement of JD and DH regarding sale or purchase of property admeasuring 85 sq yards out of khasra no. 325 situated in the area of Bhalaswa , Abadi known as Guru Nanak Dev Colony ,Near shiv Chowk,Delhi-110042. The copy of entire customary documents executed by JD in favour of objector is annexed herewith as **EXH 01/2Colly**) .The Copy of TDS deducted by Tower Vision India private Ltd since 2018 is annexed herewith as **01/3(colly)**. *The copies of income tax returns filed by the objector with department of income tax are annexed herewith as **EXH 01/4Colly**.*

7. That by way of present application, the objector is raising certain objections with respect to the attachment of property bearing Khasra no. 99/16, situated in Pinki Chaudhry Colony, West Kamal Vihar, Burari, Delhi-84 though wrongly stated in the order dated 10.06.2022 of this Hon'ble Court as “**Samaj Sewa Properties,Main 25Ft. Road, Pinki Chaudhary Colony, West Kamal Vihar, Burari, Delhi-110084.**” The internet downloaded



print out of order dated 10.06.2022 of this Hon'ble Court is annexed herewith as **Mark O1/1**.

(i) That the objector got married to JD in 2 and out of his wedlock 3 children are there. The objector has been doing the work of stitching and has been earning since her arrival in Delhi. The brother and mother of objector have also been helpful to her and they keep on supporting the objector economically. JD was in business of property dealing but did not earn enough to support the objector and her children. JD was illiterate and only knew how to sign but could not read and write. The objector has warned JD for this but JD did not care the warning of objector and fell in debt-trap. The JD had to sell the property under attachment to objector to clear his debt in 2017. But JD did not leave his property dealing business and finally fell in debt trap again and in 2018 he decided to leave Delhi. After that JD left Delhi for his home town and left the company of objector. There was separation between JD and objector and finally objector filed a divorce petition against JD and JD later decided to break their marriage tie in 2019 and entered into settlement with objector for divorce through mutual consent but due to corona and danger to his life in Delhi JD did not come Delhi to sign the petition of mutual Divorce.

(ii) The objector has been in possession of the property under attachment since her purchase and around one year JD was using only a small portion of the upper ground as his office of property dealing with the permission of objector till March-April 2018. The possession of the objector has been continuous. Some part of the property has been on rent and the objector has continued to receive rent from her tenant. Most of the tenancy were on oral basis as the objector is also an illiterate lady and only know how to sign. The copy of rent agreement executed by objector in the name of tenant (though there is mistake in khasra no. of the property) is annexed herewith as **EXH O1/5**. The copy of Aadhar Card of objector is annexed herewith as **EXH O1/6**.

(iii) That the objector came to know from her neighbour that when JD came to Delhi the decree holder with the help of his goons lifted JD and took him to the court at gun point and JD was in complete fear and coercion signed the settlement in absence of his counsel. After settlement Decree holder and his goons beaten JD brutally but out of fear JD did not make any police complaint and left Delhi again. The ownership of this property to objector was known to the Decree holder and other persons who have dealings with JD. The DH had evil eye on this property and have concealed this fact from this Hon'ble Court as before going to court and filing the suit DH came to the property for taking forcible possession of the property.



*However, after knowledge of the fact that the property is in ownership and possession of objector concealed the material facts from this Hon'ble Court.*

(iv) That the present execution filed by Decree Holder is liable to be dismissed as the same is sheer misuse and abuse of process of law *and is filed by the applicant with ulterior motive just to harass the innocent objector and to shield the misdeeds and illegal acts of Decree Holder.*

**8.** That the *attachment* of the immovable property of objector is not as per law and hence not maintainable on the following other grounds too:

A. That the Decree Holder himself admitted that JD has executed all *customary documents required for transfer of the property* admeasuring 85 sq yards out of khasra no. 325 situated in the area of Bhalaswa, Abadi known as Guru Nanak Dev Colony ,Near shiv Chowk,Delhi-110042 and the settlement dated 04.03.2020 is not as per law as the same is entered into under pressure, coercion fear and influence of plaintiff . The contents of the settlement were not read over to JD and he was only asked to sign in absence of his counsel.

B. That the *present attachment* is gross misuse of process of law as the same has been filed to forcibly *usurp the property of objector* , who has put her entire personal saving to purchase the same to and threaten them to implicate in false and frivolous case.

C. That on the date of attachment, the objector had full and absolute right, title or interest in the property and she was also in complete Possession of property attached.

D. That the objector has purchased the property under attachment as a *bona fide* purchaser and as such she has been in continuous possession of the said property. The objector prayed for recalling of order dated 10.06.2022 passed by the executing court whereby warrant of attachment of the property in question had been issued.

E. *The Objector is the absolute owner of the property by virtue of the customary documents executed by the JD in favour of objector. The Objector has been in possession and enjoyment of the said property since the date of purchase with absolute rights. JD has no rights, interests, title in the said property.*

F. *The Decree Holder has concealed the material facts from the Court and misused the process of law in order to fetch and submit false and incorrect report through bailiff. This act and conduct of*



*the DH is highly condemnable as a wrong message is going in the society that laws are being misused for ulterior motives.”*

**(Emphasis supplied)**

27. A perusal of the aforesaid portion on the Objection Petition makes it apparent that the Appellant pleaded that the Judgment Debtor had fallen into a debt trap, that he had transferred the Subject Property to her in 2017, that she had been earning through stitching and had received financial assistance from her brother and mother, and that the Judgment Debtor continued to use a portion of the property as his office until March-April 2018. She further pleaded that the parties subsequently separated and that a divorce petition was filed. At the same time, she alleged that the Judgment Debtor had been forcibly taken to Court by the Decree Holder and his associates and had been compelled, under fear and coercion, to enter into the settlement which ultimately culminated in the decree.

28. It is clear from a perusal of the Objection Petition that what the Appellant seeks to do, in substance, is to set up a case on behalf of the Judgment Debtor. The Appellant has raised various averments to the effect that the Judgment Debtor was coerced into entering into the settlement with the Decree Holder and that the settlement was brought about under fear, force and undue pressure.

29. If the Appellant's own case is to be believed, namely, that she and the Judgment Debtor had separated and were not on cordial terms, it becomes difficult to appreciate the occasion for her to advance, on behalf of the Judgment Debtor, a defence which the Judgment Debtor himself neither raised nor pursued. The very circumstance relied upon by the Appellant to establish her independence from the Judgment Debtor thus sits uneasily with the nature of the defence which she now



seeks to advance on his behalf.

30. The manner in which the Appellant seeks to account for her knowledge of the alleged coercion is equally material. The allegation is not founded upon any circumstance personally witnessed by her or upon any contemporaneous communication stated to have been made to her by the Judgment Debtor. Rather, the Appellant states that she came to know from a neighbour that the Judgment Debtor had been taken to Court and compelled to enter into the settlement.

31. There are, however, no particulars as to the identity of such person, the circumstances in which such information was allegedly received, or the basis upon which the Appellant acquired knowledge of the alleged coercion. In the absence of such particulars, the plea does not furnish any independent basis for impeaching the settlement or the decree. The learned Executing Court was, therefore, justified in noticing that the allegations of coercion, fear and force, insofar as they sought to challenge the settlement entered into by the Judgment Debtor, were in substance an attempt to introduce a fresh defence on his behalf.

32. The surrounding circumstances pleaded in support of the alleged transaction also require consideration. The Appellant asserts that the Judgment Debtor transferred the Subject Property to her in 2017, at a time when the parties were still residing together and, on her own showing, the Judgment Debtor continued to use a portion of the property for his office until March-April 2018.

33. Matrimonial discord *inter se* the parties' is relied upon to explain their separation, however, the averments made, with respect to surrounding circumstances, are not very believable and do not lend



sufficient assurance to the Appellant's case. *Firstly*, the Appellant assertion that the Judgement Debtor sold the Subject Property to her due to a debt-trap. No details have been provided of the said alleged "debt-trap". *Secondly*, no sufficient reasoning is put forth as to why the Judgement Debtor sold the Subject Property to the Appellant, his own wife, and that too while they were still not separated. *Thirdly*, any separation, if at all, between the Judgement Debtor and the Appellant appears to be only later, leading this Court to doubts the *bona fides* of the sale of the Subject Property to the Appellant.

34. *Fourthly*, the financial aspect of the alleged transaction also assumes significance. The Appellant asserts that the Subject Property was purchased from the Judgment Debtor after payment of the entire consideration. The pleadings refer to the Appellant's earnings from stitching and financial assistance from her family, however, the material relied upon does not, in itself, furnish independent corroboration of the financial transaction pleaded by her. The Income Tax Returns, brought on record before the learned Executing Court, are only from the year 2018 onwards. There is no document placed on record in respect of any earning in 2017, when the alleged transaction is stated to have taken place.

35. Thus, when the case set up by the Appellant is considered as a whole, the difficulty is not confined to the absence of a registered conveyance. The Appellant simultaneously asserts a prior proprietary transaction with the Judgment Debtor, relies upon a matrimonial relationship which continued during the relevant period, seeks to show that there is a subsequent separation between the parties, and advances a defence on behalf of the Judgment Debtor impeaching the settlement



between the Judgement Debtor and the Decree Holder which resulted in the decree.

36. The learned Executing Court has examined the Objection Petition not merely by reference to the documents relied upon but also in the context of the surrounding circumstances pleaded by the Appellant herself. The finding that the transaction could not be accepted as *bona fide* does not rest upon any single circumstance. It emerges from the cumulative effect of the absence of contemporaneous proof of consideration, the unexplained financial circumstances, the nature of the matrimonial relationship, the inconsistent account regarding separation and the attempt to introduce a defence on behalf of the Judgment Debtor, through the Objection Petition.

37. This brings the Court to the reliance placed by learned counsel for the Appellant upon the judgment of this Court in ***Manoj Kumar Shah*** (*supra*) decided on 09.03.2006. In the said case, the Court was concerned with an objection under Order XXI Rule 58 where the objector claimed to be a *bona fide* purchaser and the questions of his knowledge of the decree and the *bona fides* of the transaction were disputed questions of fact and law. The Court held that such questions could be decided only after affording the parties a full and fair opportunity to lead evidence.

38. The said decision, however, does not lay down that every Objection under Order XXI Rule 58 CPC must necessarily undergo a trial merely because the objector disputes the transaction relied upon by the Decree Holder. ***Manoj Kumar Shah*** (*supra*) itself recognises that an objection may be dismissed at the preliminary stage in the



circumstances contemplated by the *proviso* to Order XXI Rule 58(1).

The relevant portion of the said judgment reads as under:

“8. Objections made under Order XXI, Rule 58 of the Code can be dismissed at the preliminary stage as provided in the proviso (a) to Sub-section (1). Proviso (b) to Sub-section (1) requires the Executing Court to dismiss the claim or objection if the same is made unnecessarily or designedly to delay the execution proceedings. The claim/objection filed by the appellant is on the basis that he is a bonafide purchaser who had no knowledge whatsoever of the decree passed in favour of the decree holder. The Executing Court has not come to a conclusion that the claim or objection has been filed only with a view to unnecessarily delay the execution proceedings or was designed with that object in mind. The contentions and objections raised by the appellant can be decided only after recording evidence as there are disputed questions of fact involved and not on the basis of pleadings and statements made in the objection petition and the reply thereto.”

39. The present case stands on a materially different footing. In addition to the foregoing discussion; the decree sought to be challenged is a result of a settlement as between the Judgment Debtor and the Decree Holder. The Judgment Debtor has never raised a contention that the settlement was a result of any force or coercion. The Appellant is the wife of the Judgment Debtor and traces her alleged title to him. The documents relied upon by her are unregistered and, as already held hereinabove, even proof of their execution cannot confer upon her the title which she claims. The evidentiary enquiry contemplated in ***Manoj Kumar Shah*** (*supra*) was thus material to the determination of the right asserted by the objector therein, however, in the present case, proof of execution of the documents dated 24.01.2017 cannot alter their legal character or convert them into a registered conveyance.

40. The principle in ***Manoj Kumar Shah*** (*supra*), therefore, does not assist the Appellant. The necessity of recording evidence must



depend upon whether the disputed facts are material to the determination of a legally sustainable claim. In the present case, the execution of the unregistered documents, even if established, cannot confer title upon the Appellant, nor can the allegations made on behalf of the Judgment Debtor furnish a basis for reopening the decree in the present execution proceedings. The learned Executing Court was, therefore, justified in declining to embark upon the evidentiary exercise sought by the Appellant. Furthermore, the objections appear to be a clear attempt to overcome the settlement as between the parties and appear to be a means to delay and frustrate the decree.

**DECISION:**

41. For the aforesaid reasons, this Court finds no infirmity in the Impugned Order. Accordingly, the present Appeal, being *sans* merit, is dismissed.

42. The present Appeal, along with pending Application(s), if any, stands disposed of in aforementioned terms.

43. Accordingly, the date already fixed, *i.e.*, 29.09.2026, also stands cancelled.

**HARISH VAIDYANATHAN SHANKAR, J.**  
**SEPTEMBER 18, 2026/v/DJ**