C-45/2022
13/01/2022

OFFICE OF THE PRINCIPAL DISTRICT & SESSIONS JUDGE,
SHAHDARA DISTRICT, KARKARDOOMA COURTS, DELHI

CIRCULAR

Keeping in view of the sudden spurt of Covid-19 cases, the Ld. Principal District & Sessions Judge, Shahdara, Karkardooma courts, Delhi has directed that till further orders, physical services of all documents, Notices, Summons and Daks is dispensed with and instead, service will be effected only through e-mail, fax and/or Whatsapp by Nazarat Branch, Shahdara District. The necessary e-mail address and other details will be required to be furnished by the concerned party seeking to effect the service and is to be mentioned on the process sent for service. However, if there is a specific order of the Court that service is to be effected physically, an endorsement to that effect be made on the process and only then, it will be served physically.

In so far as execution of warrants in execution petitions is concerned, the order dated 22.04.2021 passed in the case of 'Mrs. Savitri Devi Vs. Mrs. Santoshi Bhutani & Anr' in CM (M) No. 555/2020 by Hon'ble High Court of Delhi, is to be compiled with. Copy of this order is attached herewith.

SNIGDHA SARVARIA
Digitally signed by SNIGDHA SARVARIA
Date: 2022.01.12 17:32:41 +05'30'

(Snigdha Sarvaria)
Administrative Civil Judge
Shahdara District, Karkardooma Courts,
Delhi.

No. 143-146 **/ACJ/SHD/2022** **Dated:** 12/1/22

Copies forwarded for information and necessary action to :-

1. All the Ld. Judicial Officers of Shahdara District, Karkardooma Courts, Delhi with the request to bring this Circular into the notie of their concerned staff for immediate compliance.
2. PS to Ld. Principal District & Sessions Judge, Shahdara District, KKD, Delhi.
3. Incharge, Nazarat Branch, Shahdara District, Karkardooma Courts, Delhi.
4. R&I Branch for uploading on LAYERS & website.

SNIGDHA SARVARIA
Digitally signed by SNIGDHA SARVARIA
Date: 2022.01.12 17:33:37 +05'30'

(Snigdha Sarvaria)
Administrative Civil Judge
Shahdara District, Karkardooma Courts,
Delhi.

$~40

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

Date of decision: 9th November, 2020

\+ **CM (M) 555/2020 & CM APPLs.28419/2020 & 28420/2020**

Signature Not Verified
Digitally Signed By:DINESH SINGH NAYAL
Signing Date:10.11.2020 21:11:17

MRS. SAVITRI DEVI (SINCE DECEASED) THROUGH LRs) & ORS. ..... Petitioners

Through: Mr. Lalit Gupta, Advocate.

versus

MRS. SANTOSHI BHUTANI & ANR. ..... Respondents

Through: None.

CORAM:
JUSTICE PRATHIBA M. SINGH

Prathiba M. Singh, J. (Oral)

1. This hearing has been done by video conferencing.

2. The present petition has been filed challenging the impugned order dated 3rd October, 2020, by which the Executing Court has declined to pass an order appointing a bailiff and directing execution of warrants of possession along with police aid being given to the bailiff. The Petitioner's grievance in this case is that the Executing Court is not passing such an order, despite the Petitioner holding a decree for possession.

3. The brief background of this case is that a decree for eviction was passed on 26th February, 2020 in the following terms: -

> *"In view of the aforesaid discussion, this Court is of the considered opinion that the petitioner(s) have proved all the necessary ingredients of Section 14 (1) (e) of Delhi Rent Control Act, 1958. Accordingly, an eviction order is passed U/s 14 (1) (e) of DRC Act in favour of the petitioners and against the respondent in respect of one shop forming part of property bearing No.201, Bazar Ajmeri Gate, Delhi-110006, as shown in red colour in the site plan attached with the petition. This order shall not be executable before the expiry of six months from*

Signature Not Verified
Digitally Signed
By:PRATHIBA M SINGH
Signing Date:10.11.2020 21:11:17

the date of this. order as provided U/s 14 (7) of DRC Act. Parties to bear their own costs."

Signature Not Verified
Digitally Signed By:DINESH SINGH NAYAL
Signing Date:10.11.2020

4. As per the above judgment/decree under Section 14(1)(e) of the Delhi Rent Control Act, 1958 (*hereinafter, 'DRC Act'*), a decree for possession was passed in favour of the Petitioner/Landlord. However, it was directed that the same would not be executable for a period of six months from the date of the order, as per Section 14(7) of the DRC Act.

5. Mr. Gupta, ld. counsel for the Petitioner submits that accordingly, this order became executable on 26th August, 2020. The Tenant/Respondent filed an appeal challenging the order, which was first listed on 1st September, 2020 on which date, the maintainability of the appeal questioned. Thereafter, on 25th September, 2020, the appeal was dismissed as withdrawn.

6. The execution petition filed by the Landlord was first listed on 27th August, 2020. The usual practice in the courts is that whenever the matter is about to reach, the Ahlmad makes a call to the counsels. On the said date, the Landlord could not join the proceedings, as the telephone call was made to the mobile number of the Respondents.

7. Thereafter on 23rd September, 2020, the warrants of possession were not issued on the ground that the Nazarat Branch is not working. On 3rd October, 2020 again, the same reason was given and warrants of possession were not issued. Thus, ld. counsel for the Petitioner prays that the Landlord is being deprived of the premises and the decree is being frustrated.

8. Reliance is placed upon the order of the Supreme Court dated 12th May, 2011 in ***M/s Ram Prakash Sharma v. Baulal Birla (D) by LRs [I.A. No. 3/2011 in Civil Appeal No. 5310/2010]***, which permitted possession of premises to be taken over with police aid. Reliance is also placed on the

Signature Not Verified
Digitally Signed By:PRATHIBA M SINGH
Signing Date:10.11.2020 18:41

notification of the Delhi High Court dated 15th March, 2010 giving directions for streamlining the procedure for speedy disposal of cases under the Delhi Rent Control Act, 1958 police aid, under which police aid can be given for ensuring quicker delivery of possession to the decree holder.

Signature Not Verified
Digitally Signed By:DINESH SINGH NAYAL
Signing Date:10.11.2020

9. A perusal of the record shows that the decree for eviction was passed way back on 26th February, 2020 and time, in accordance with the provisions of the DRC Act, was already given to the Tenant. The Tenant ought to have availed of its legal remedies in accordance with law. However, till date i.e. almost eight months having passed by, there is no appeal filed by the Tenant nor is there a stay order against the decree. Even the appeal filed before the ARCT was not maintainable and was withdrawn.

10. Under such circumstances, merely on the ground that the Nazarat Branch is not working due to Covid, non-issuance of warrants of possession cannot be justified. The valuable rights of the Landlord are being taken away due to a logistical issue, with which the Landlord is not concerned.

11. A perusal of the notification issued by the High Court of Delhi dated 15th March, 2010 shows that there is a general practice direction which has been passed in respect of speedy disposal of the case under the DRC Act. The relevant portion of the above is set out herein below: -

> *"**Power to render police aid -in execution proceedings** — The Rent Controllers/Additional Rent Controllers shall be empowered to order for police aid at the first instance in the execution proceedings so as to ensure quicker delivery of possession to the decree holder, by giving appropriate directions to the concerned SHO."*

12. From the above, it is clear that police aid can be granted even at first instance so as to ensure quick delivery of possession to the decree holder.

Signature Not Verified
Digitally Signed By:PRATHIBA M SINGH
Signing Date:10.11.2020

13. Moreover, repeated adjourning of execution petitions of decrees which are not stayed and which are executable, deprives the decree holders of extremely valuable rights specially in the case of decrees of possession, which may be granted under the DRC Act. The initial decree itself is passed after several years since filing of the petition and once the decree becomes executable, there can be no valid reason to keep adjourning execution petitions as in the manner which has been done in the present case.

Signature Not Verified
Digitally Signed By:DINESH SINGH NAYAR
Signing Date:10.11.2020

14. Accordingly, it is directed that the execution petition shall be taken up on the date fixed i.e. 21st November, 2020 and if there is no stay on the decree, orders shall be passed in accordance with law to ensure that the decree is executed. It is further directed that the District Judge of the concerned Court, namely, Central/Tis Hazari Court shall issue directions for immediate functioning of the Nazarat Branch so that the warrants of possession can be prepared in execution petitions.

15. Moreover, keeping in mind the area where the decree is to be executed, the Executing Court would also consider directing police aid in the first instance itself.

16. Copy of this order be communicated by the ld. Registrar General of this Court to the District Judge, Central/Tis Hazari Court for immediate compliance.

17. With these observations, the present petition is disposed of. All pending applications are also disposed of.

PRATHIBA M. SINGH
JUDGE

NOVEMBER 9, 2020
Rahul / A

Signature Not Verified
Digitally Signed
By:PRATHIBA M SINGH
Signing Date:10.11.2020