4/20/18 03/7/19 C-1416/21 4/12/21 2 4/12/21 Comp

Most Urgent/Out at once

OFFICE OF THE PRINCIPAL DISTRICT & SESSIONS JUDGE (HQ): DELHI

No. 38114–38534 Genl./HCS/2021 Dated, Delhi the 01 DEC 2021

Circulation of copy of Order dated 17/11/2021 passed by Hon'ble Ms. Justice Pratibha M. Singh in C.R.P. No. 75/2020 & C.M. No. 29472/2020 titled as "Anil Kumar and Anr. Vs. Amit" for information and immediate compliance : -

1. All the Ld. Principal District & Sessions Judges, Delhi, New Delhi (except Central District). (E)
2. All the Judicial Officers posted in Central District, Tis Hazari Courts, Delhi.
3. The Ld. Registrar General, Hon'ble High Court of Delhi, New Delhi for information.
4. The Ld. Chairman, Website Committee, Tis Hazari Courts, Delhi with the request to direct the concerned official to upload the same on the Website of Delhi District Courts.
5. The Director (Academics), Delhi Judicial Academy, Dwarka, New Delhi for information as requested vide letter no.DJA/Dir.(Acd)/2019/4306 dated 06.08.2019.
6. PS to Ld. District & Sessions Judge (HQs), Tis Hazari Courts, Delhi.
7. Dealing Assistant, R&I Branch for uploading the same on LAYERS.
8. For uploading the same on Centralized Website through LAYERS.

(GAJENDER SINGH NAGAR)
Link-Officer In-Charge, General Branch, (C)
CMM, Tis Hazari Courts, Delhi

Encls. As above.

Pls circulated to O/C/ computer Pvr.

Jr. DJS/East

COPY OF ORDER

18227/X **IN THE HIGH COURT OF DELHI, NEW DELHI**

No. C-1 dt. 24/11/21

From

The Registrar General
High Court of Delhi,
New Delhi.

To

1. The District & Sessions Judge (Headquarters), Tis Hazari Courts, Delhi.
2. The District & Sessions Judge (Central), Tis Hazari Coutts, Delhi.
3. The District & Sessions Judge (West), Tis Hazari Coutts, Delhi.
4. The District & Sessions Judge (North), Rohini Courts, New Delhi.
5. The officiating District & Sessions Judge (North-West), Rohini Courts, Delhi.
6. The District & Sessions Judge (East), Karkardooma Courts, Delhi.
7. The District & Sessions Judge (North-East), Karkardooma Courts, Delhi
8. The District & Sessions Judge (Shahdara), Karkardooma Courts, Delhi
9. The District & Sessions Judge (South), Saket Courts, Delhi.
10. The District & Sessions Judge (South-East), Saket, New Delhi.
11. The District & Sessions Judge (New Delhi), Patiala House Courts, New Delhi.
12. The District & Sessions Judge (South-West), Dwarka Courts, New Delhi.
13. The District Judge Cum Special Judge, Rouse Avenue, New Delhi.

C.R.P. NO. **75/2020** & C.M. NO. **29472/2020**

ANIL KUMAR AND ANR. PETITIONERS

VERSUS

AMIT RESPONDENTS

Petition under Section **115 of CPC** / 25B (8) of DRC Act against the order dated [redacted] passed by Sh. Nitesh Kumar Sharma, Ld. CJ-01 (West), Tis Hazari Courts, Delhi [redacted] 734/18.

Sir,

I am directed to forward herewith for information and immediate compliance of the [redacted] order dated **17.11.2021** passed by the **Hon'ble Ms. Justice Pratibha M. Singh** of this Court in the above noted case.

Please acknowledge receipt.

Yours faithfully

Admn. Officer (J) C – I 22/11/21
For Registrar General

Encl: 1) Copy of Order dt. 17.11.2021
2) Memo of Parties

Genl. Br.

[redacted]

COPY OF ORDER

18226/X **IN THE HIGH COURT OF DELHI, NEW DELHI**

No. C-1 dt. 24/11/21

From

The Registrar General
High Court of Delhi,
New Delhi.

To

1. The District & Sessions Judge (Headquarters), Tis Hazari Courts, Delhi.
2. The District & Sessions Judge (Central), Tis Hazari Coutts, Delhi.
3. The District & Sessions Judge (West), Tis Hazari Coutts, Delhi.
4. The District & Sessions Judge (North), Rohini Courts, New Delhi.
5. The officiating District & Sessions Judge (North-West), Rohini Courts, Delhi.
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7. The District & Sessions Judge (North-East), Karkardooma Courts, Delhi
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9. The District & Sessions Judge (South), Saket Courts, Delhi.
10. The District & Sessions Judge (South-East), Saket, New Delhi.
11. The District & Sessions Judge (New Delhi), Patiala House Courts, New Delhi.
12. The District & Sessions Judge (South-West), Dwarka Courts, New Delhi.
13. The District Judge Cum Special Judge, Rouse Avenue, New Delhi.

C.R.P. NO. **75/2020** & C.M. NO. **29472/2020**

PETITIONER/S

ANIL KUMAR AND ANR.

VERSUS

RESPONDENT/S

AMIT

Petition under Section **115 of CPC** / 25B (8) of DRC Act against the order dated 18.11.2019 passed by Sh. Nitesh Kumar Sharma, Ld. CJ-01 (West), Tis Hazari Courts, Delhi in CS SCJ No. 734/18.

Sir,

I am directed to forward herewith for information and immediate compliance of the copy of order dated **17.11.2021** passed by the **Hon'ble Ms. Justice Pratibha M. Singh** of this Court in the above noted case.

Please acknowledge receipt.

Yours faithfully

Admn. Officer (J) C – I
For Registrar General

Encl: 1) Copy of Order dt. 17.11.2021
2) Memo of Parties

IN THE HON'BLE HIGH COURT OF DELHI, AT NEW DELHI
CIVIL. REV. PETITION NO. 75 OF 2020

IN THE MATTER OF:

Anil Kumar & Anr. ...Petitioners

Versus

Amit ...Respondent

PETITION UNDER SECTION 115 OF THE CODE OF CIVIL PROCEDURE 1908 FOR SETTING ASIDE OF IMPUGNED ORDER DATED 18.11.2019 PASSED BY SH. NITISH KUMAR SHARMA, LD. CIVIL JUDGE, TIS HAZARI DISTRICT COURTS, DELHI IN CS. NO. 734/2018 TITLED AS *"AMIT VS. ANIL & ORS."* WHEREIN THE APPLICATION UNDER ORDER 7 RULE 11 OF THE CODE OF CIVIL PROCEDURE, 1908 FILED BY THE PETITIONERS HAS BEEN DISMISSED

MEMO OF PARTIES

---

1. Anil Kumar
2. Ashok Kumar

Both sons of
Late Sh. Chhote Lal

Through their SPA:
Pankaj Kumar,
S/o Sh. Ashok Kumar,
R/ WZ - 378-C, Basai Dara Pur,

4

New Delhi - 110015 ...Petitioners

Versus

Amit Kumar
S/o Late Sh. Ved Prakash

Through his counsel/ alleged SPA:
Advocate Amarjeet Singh Sahni
Chamber No. 23 -24, Basement,
Civil Side, Tis Hazari Court, Delhi .... Respondent

New Delhi

Dated 28.9.2020

Filed by:

N.K. Aggarwal, Advocate
D-1349/2004
Chamber No. 308, III Floor,
Lawyers' Chambers Block,
Dwarka Court Complex,
Sector 10, Dwarka, New Delhi - 110075
Mobile No. 9818342898
advnkaggarwal@gmail.com

$~26 to 28

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

Date of decision: 17th November, 2021

\+ **C.R.P. 75/2020 & CM APPL. 29472/2020**

ANIL KUMAR AND ANR ..... Petitioners

Through: Mr. N.K. Aggarwal, Ms. Yogita Sunaria, Advocates & Mr. Pankaj, SPA holder of Petitioner (M: 9818342898 & 7011447315)

versus

AMIT ..... Respondent

Through: Mr. Amarjeet Singh Sahni, Advocate (M: 9810047975)

27 WITH

\+ **C.R.P. 42/2021 & CM APPL. 14739/2021**

ASHOK KUMAR ..... Petitioner

Through: Mr. N.K. Aggarwal, Ms. Yogita Sunaria, Advocates & Mr. Pankaj, SPA holder of Petitioner (M: 9818342898 & 7011447315)

versus

AMIT KUMAR ..... Respondent

Through: Mr. Amarjeet Singh Sahni, Advocate (M: 9810047975)

28 AND

\+ **C.R.P. 44/2021 & CM APPL. 14789/2021**

ASHOK KUMAR ..... Petitioner

Through: Mr. N.K. Aggarwal, Ms. Yogita Sunaria, Advocates & Mr. Pankaj, SPA holder of Petitioner (M: 9818342898 & 7011447315)

versus

AMIT KUMAR ..... Respondent

Through: Mr. Amarjeet Singh Sahni, Advocate (M: 9810047975)

CORAM:
JUSTICE PRATHIBA M. SINGH

Prathiba M. Singh, J. (Oral)

1. This hearing has been done through hybrid mode.

2. These petitions arise out of three different suits relating to the same property bearing No. ***WZ-50B-F, measuring 281 sq.yds. out of khasra No.698, situated in the abadi of Old Lal Dora (1908-09) of Village Basai Darapur, Delhi.***

3. ***C.R.P. 75/2020*** arises out of the impugned order dated 18th November, 2019, in ***CS No. 734/2018*** titled ***Amit v. Anil & Ors.***, by which the application of the Petitioner/Defendant No.2 (*hereinafter "Defendant"*) under Order VII Rule 11 CPC has been rejected. In the other two petitions, the applications under Order VII Rule 11 CPC have been dismissed in default.

4. ***C.R.P. 42/2021*** arises out of the impugned order dated 5th February, 2021, in ***CS No. 198/2019*** titled ***Amit v. Ashok Kumar & Ors.***, by which the application of the Defendant under Order VII Rule 11 CPC has been dismissed in default, by the Trial Court.

5. ***C.R.P. 44 of 2021*** arises out of the impugned order dated 5th February, 2021 in ***CS No. 199/2019*** titled ***Amit v. Ashok Kumar & Ors.***, by which the application of the Defendant under Order VII Rule 11 CPC has been dismissed in default, by the Trial Court.

6. The question raised in these petitions was whether Mr. Amarjeet Singh Sahni, who was acting as the power of attorney holder of the Plaintiff,

Mr. Amit Ved/Plaintiff/Respondent herein (*hereinafter "Plaintiff"*), and had verified the plaint on behalf of the said Plaintiff could appear also as a counsel in the matter. In ***C.R.P. 75/2020***, vide order of the Court dated 13th July, 2021, Mr. Sahni submitted that he would withdraw his *Vakalatnama* and continue as the power of attorney holder and he would no longer act as a counsel for the Plaintiff. He again assures this Court that he would withdraw his *Vakalatnama* in the Trial Court proceedings and he would no longer act as a counsel for the Plaintiff in this matter. He submits that he shall take steps within 2 weeks for substitution of the *Vakalatnama* by a new counsel.

7. It is made clear that the practice of advocates acting as power of attorney holders of their clients, as also as advocates in the matter is contrary to the provisions of the Advocates Act, 1961. Any advocate who is engaged by a client would have to play only one role, i.e., that of the advocate in the proceedings and cannot act as a power of attorney holder and verify pleadings and file applications or any other documents or give evidence on behalf of his client. This aspect has to be scrupulously ensured by all the Trial Courts. This legal position has been settled by various decisions. In ***Baker Oil Tools (India) Pvt. Ltd. & Ors. v. Baker Hughes Ltd. & Ors., 2011 (47) PTC 296 (Del)***, the Court held:

> *"Thus as is manifest from the said rule, it would be a professional misconduct if a lawyer were to don two hats at the same time. However not only that, the partnership firms have a hurdle for acting in the said two capacities even under The Partnership Act, as every partner in a partnership firm is an agent of another and if one were to be acting as an advocate for a client, the rest would also be in the same capacity by virtue of agency and the same would be the situation in case of an advocate acting as a client. However, it*

cannot be forgotten by any who has ever been graced with the honour of wearing the robe that the lawyer is first an officer of the court and his prime duty is to assist the court in the administration of justice. The rules of conduct as per the Bar Council Of India Rules may act as a guardian angel for ensuring the moral conduct of the lawyers but the legacy of the traditions of the Bar cannot be bedaubed by a few for the lucre of commercial gains. A lawyer cannot forget that this is called a noble profession not only because by virtue of this he enjoys an aristocratic position in the society but also because it obligates him to be worthy of the confidence of the community in him as a vehicle of achieving justice. The rules of conduct of this profession with its ever expanding horizons are although governed by the Bar Council of India Rules but more by the rich traditions of the Bar and by the cannons of conscience of the members of the calling of justice of being the Samaritans of the society. Thus the foreign companies and firms must respect the laws of this land and the solicitors and law firms are equally not expected to discharge their duties as clients for these foreign companies/firms. Law is not a trade and briefs no merchandise and so the avarice of commercial gains should not malign this profession. Hence there can be no divergent view on the legal proposition that an Advocate cannot act in the dual capacity, that of a constituted attorney and an advocate."

8. The Plaintiff Mr. Amit Ved, is a resident of Bangkok, Thailand. Mr. Sahni claims to be his power of attorney holder. Mr. Sahni has verified the plaint and all other pleadings on behalf of the Plaintiff. He is also appearing as the counsel for the Plaintiff which would be impermissible. However, since in the present case, Mr. Sahni has assured the Court that he would no longer act as an advocate in the matter, no further observations are being

passed in this regard.

9. Mr. Pankaj, who is the power of attorney holder for the Defendants and who has filed the present revision petitions is also present in Court. He and Mr. Sahni who is the power of attorney holder for the Plaintiff, submit that the dispute between the parties have been resolved by way of Deed of Settlement/Memorandum of Understanding dated 30th July, 2021. The original MoU/Deed of Settlement has been shown to the Court and the photocopies have been taken on record. As per the said MoU/Deed of Settlement, a tripartite agreement has been entered into between the Plaintiff in the suit, the Defendants, as also one Mr. Ved Prakash Bhagat who is to carry out construction in the suit property.

10. Mr. Aggarwal, appearing for the Petitioner, however, submits that he has not been informed of the settlement and neither a copy of the same has been shown to him. There appears to be some issue between the Petitioner and his counsel, Mr. Aggarwal. Mr. Pankaj who is appearing in the Court is duly identified by Mr. Aggarwal who had filed the present petitions. Mr. Pankaj, has also confirmed that the settlement has been arrived at out of Court, and he had not sought the advice of Mr. Aggarwal, ld. counsel.

11. Since this Court has perused the original MoU and both Mr. Pankaj and Mr. Sahni, confirm that the MoU/Deed of Settlement has been executed, the petitions are disposed of as the disputes have been settled. No further orders are called for in these petitions.

12. Accordingly, the parties to appear before the Trial Court on the date fixed, i.e., 28th January, 2022, for presenting the settlement and for recording of the same. At the time of recording of the settlement, the Trial Court, if it deems appropriate may also record the statement of the parties themselves

apart from their power of attorney holders. The Parties may appear even virtually as the Plaintiff is stated to be a resident of Thailand and the Court may record its satisfaction after statements of parties are recorded that the settlement is legal, in accordance with law.

13. These three petitions are disposed of in view of the settlement between the parties.

14. A copy this order be circulated to all the District Courts by the Registry.

Sd/-

PRATHIBA M. SINGH
JUDGE

NOVEMBER 17, 2021/*Aman/MS*

TRUE COPY

EXAMINER

THE SEAL OF DELHI HIGH COURT
सत्यमेव जयते
NEW DELHI