

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

Date of Reserve: May 26, 2010

Date of Order: July 2, 2010

CM(M) No. 699 of 2010 & CM Nos 9773-9774/2010

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02.07.2010

HY LINK OVERSEAS PVT. LTD.

.... Petitioner

Through: Mr. Santosh Chaurihaa, Adv.

Versus

SMT. SONA DEVI & ORS.

... Respondents

Through: None.

JUSTICE SHIV NARAYAN DHINGRA

1. Whether reporters of local papers may be allowed to see the judgment?
2. To be referred to the reporter or not?
3. Whether judgment should be reported in Digest?

JUDGMENT

1. By this petition, the petitioner has assailed the order of learned Tribunal dated 28th January, 2010, whereby the Tribunal directed SDM to realize the award amount by attachment of movable and immovable properties of Vijay Gulati and in case nothing was recovered there from, then by way of attachment of properties of M/s Hy Link Overseas Pvt. Ltd.

2. The accident in question was caused on 28th April, 1993 by a vehicle owned by a firm M/s. Shiv Pipes & Hardware Stores, 327, Hauz Qazi, Delhi. Vide award dated 17.10.2007, a compensation of Rs. 2,30,540/- was

directed to be given to the claimants. Since the vehicle was not insured, liability to pay the compensation was on the owner of the vehicle. When Warrants of Attachment of assets of M/s. Shiv Pipes & Hardware Stores, 327, Hauz Qazi, Delhi, were sent, Mr. Sidharth Gulati, the proprietor of M/s. Hy. Link Overseas Pvt. Ltd., on whose behalf the present petition has been filed, filed objections and stated that the premises and movable assets lying in it belonged to M/s. Hy. Link Overseas Pvt. Ltd. and the Warrants of Attachment should be withdrawn. The Decree Holder placed on record the visiting card of Mr. Sidharth Gulati showing that he was not only a Director in M/s. Hy. Link Overseas Pvt. Ltd. at 327, Hauz Qazi, Delhi but also in another export firm M/s. Shiv Export Pvt. Ltd. and that he was son of Vijay Gulati, proprietor of M/s Shiv Pipes & Hardware Stores, having the same address of 327, Hauz Qazi, Delhi. The Tribunal directed personal appearance of Vijay Gulati and after hearing him observed that the grounds were being made to avoid the liability by respondent No. 2 i.e. Vijay Gulati and M/s. Shiv Pipes & Hardware Stores. She observed that for this reason the name of M/s. Shiv Pipes & Hardware Stores was changed to M/s. Shiv Export Pvt. Ltd. keeping the same address. The Tribunal also observed that details of Board of Directors of M/s Hy. Link Overseas Pvt. Ltd. and M/s. Shiv Export Pvt. Ltd. were not produced. Therefore, the Tribunal passed impugned order for attachment of the property.

3. There is no denial that premises No. 327, Hauz Qazi, Delhi belongs to M/s. Shiv Pipes & Hardware Stores. Name of this Store was changed to M/s. Shiv Export Pvt. Ltd. and Mr. Sidharth Gulati is one of the share holders of M/s. Shiv Export Pvt. Ltd. Mr. Sidharth Gulati did not deny his visiting cards produced before Tribunal and the fact that the same landline telephone number, same mobile number, same address and the same e-mail id were being used by both the companies. It is apparent that efforts were being made by the petitioner and his father to deprive the claimant of compensation as awarded by the Tribunal.

4. I find no infirmity in the order of learned Tribunal, rather, to enforce the award, the Tribunal should have gone a step further and should have also passed order for civil imprisonment of Vijay Gulati, the proprietor of M/s. Shiv Pipes & Hardware Stores. Being proprietor of the firm he was personally liable for payment of the award amount.

5. This petition is dismissed with a cost of Rs. 20,000/- to be deposited with Delhi High Court Legal Services Committee.

July 2, 2010
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SHIV NARAYAN DHINGRA, J.