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IN THE HIGH COURT OF DELHI AT NEW DELHI

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EX.P. 340/2010

SUMIT MITTAL & ORS.

..... Decree Holders

Through: Mr. Arvind Nigam, Senior Advocate
with Mr. Amit Sibal & Mr. Alok K.
Aggarwal, Advocates

versus

AMIT SINHA

..... Judgment Debtor

Through: Mr. Vikas Singh, Senior Advocate
with Mr. Prem Prakash, Advocate

CORAM:

HON'BLE MR. JUSTICE VIPIN SANGHI

ORDER

09.11.2010

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Learned senior counsel for the judgment debtor points out that according to the report of the local commissioner the equipments mentioned at page 6 of the report and marked as X1, X2, X3, X4 & X5 had been taken by the judgment debtor from M/s RSG Broadcast India Pvt. Ltd., represented by one Mr. Gaurav Aggarwal, on rent. He submits that these equipments should, therefore, be given to M/s RSG Broadcast India Pvt. Ltd.

Learned counsel for the decree holder does not object to this, and is agreeable that these equipments be delivered to M/s RSG

Signature Not Verified
M/s RSG Broadcast India Pvt. Ltd. against acknowledgement of receipt.

Digitally Signed By: AMULYA
Certify that the digital file and
physical file have been compared and
the digital data is as per the physical
file and no page is missing.

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Mr. Singh further points out that equipments Mark A, B, C & D at page 159 of the local commissioner's report are the equipments which do not belong to the decree holder and, according to the judgment debtor, had been taken on rent from third parties. Mr. Singh submits that the documentary evidence of these equipments being taken on rent would be available within the premises itself, and when the said premises is cleared up the documents are likely to be located. He further submits that, in any event, the decree holder has not even raised a claim in respect of these equipments.

Learned senior counsel for the decree holder submits that these equipments may be delivered to the judgment debtor against an indemnification to protect the decree holder against third party claims.

No other objection has been raised to the report of the local commissioner.

Accordingly, I direct the local commissioner Mr. Om Prakash to proceed to deliver all equipments sealed in the premises, and the premises bearing No.A-37, Sector-60, NOIDA, U.P. to the decree holder on 10.11.2010 at 04:30 p.m.

The equipments marked X1, X2, X3, X4 & X5 shall be delivered to M/s RSG Broadcast India Pvt. Ltd. by the local commissioner against acknowledgment. The judgment debtor may, accordingly, inform the representative of M/s RSG Broadcast India Pvt. Ltd. to be present to collect the said equipments at the site at the appointed time and date,

as aforesaid.

The equipments marked as A, B, C & D mentioned at page 159 of the report of the local commissioner shall be delivered to the judgment debtor and the judgment debtor shall simultaneously deliver an indemnity bond in respect of the said equipments to indemnify the decree holder against any claims made by any third party in respect of such equipments.

Mr. Vikas Singh, learned senior counsel, states on instructions that the judgment debtor shall not come in the way of the decree holder in using the equipments and the premises which shall be handed over by the local commissioner to the decree holder.

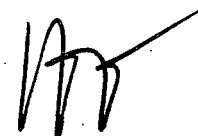
The dispute with regard to any missing equipment/machinery does not come within the scope of these execution proceedings. It shall be open to the parties to raise all such claims before the arbitral tribunal.

Mr. Singh learned senior counsel for the judgment debtor has urged that the decree holder should be restrained from dealing with the machinery and equipments which would be delivered by the local commissioner, during the pendency of the arbitral proceedings. However, as I am not dealing with a petition under Section 9 of the Arbitration and Conciliation Act, the said relief cannot be considered in these execution proceedings. It shall be open to the judgment debtor to take appropriate steps to pursue its said relief.

The fee of the local commissioner, Mr. Om Prakash, Advocate, who shall execute the final commission, is fixed at Rs.15,000/-, to be borne by the decree holder. A copy of the order be communicated to the local commissioner today itself 'Dasti' under signature of the Court Master.

Copy of the order be also given 'Dasti' to parties under signature of Court Master.

Execution petition stands disposed of.



VIPIN SANGHI, J.

NOVEMBER 09, 2010
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