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IN THE HIGH COURT OF DELHI AT NEW DELHI**EX.P. 384/2010 & E.A. No. 263/2011****AKASH JAIN**

..... Decree Holder

Through: Mr. Vikas Sharma, Advocate.

versus

SAMAT BHADRA CGHS LTD

..... Judgement Debtor

Through: Mr. Fanish K. Jain, Advocate.

CORAM: JUSTICE S. MURALIDHAR**ORDER**

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21.11.2011

1. The Decree Holder ('DH') has recalculated the amounts which according to the DH are owing to him after accounting the fact that an appeal against one portion of the Award concerning additional escalation costs in the sum of Rs. 17,66,993/- has been stayed by the Division Bench of this Court by an order dated 2nd June 2010 in FAO (OS) No. 395 of 2010. The stay was granted subject to the Judgement Debtor ('JD') depositing a sum of Rs. 12,00,000/- in this Court, which the JD has since done, on 14th July 2010.

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2. The present controversy is about the sum of Rs. 23,31,530/- that has now been paid by the DH to the Petitioner in terms of the judgment dated 20th January 2010. According to the DH since the six months' period within which the said payment had to be made expired on 20th July 2010 and since the payment was made by the JD on 24th July 2010, the applicable interest would be 9%.

3. The above submission was disputed by learned counsel for the JD, who points out that pay order in the sum of Rs. 23,31,530/- was in fact ready on 20th July 2010 itself. A letter was issued to the DH on that date itself to come and collect the said pay order. However, the DH did not collect the pay order till 24th July 2010.

4. The above submissions have been considered. It is held that, barring the amount awarded towards additional escalation, i.e., Rs. 17,66,993/-, the remaining portion of the judgment and decree dated 20th January 2010 passed by this Court in O.M.P. No. 231 of 1998 stands satisfied.

5. As regards the balance amount, that will depend on the outcome of the

appeal, i.e., FAO (OS) No. 395 of 2010. It will be open to the DII, after the judgment of the Division Bench in FAO (OS) No. 395 of 2010, to have the present execution petition revived, if needed, for the limited purpose of recovery of any amount still found payable to the DII by the JD.

6. The petition and pending application are disposed of.



S. MURALIDHAR, J

NOVEMBER 21, 2011

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