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

+ EX.P. 65/2016

RAKESH KUMAR JAIN

..... Decree Holder

Through: Mr. A.K. Bajpai, Mr. Praveen Gupta
& Mr. Amit Gupta, Advs.

Versus

M/S AEZ INFRATECH PVT. LTD & ANR..... Judgement Debtors

Through: Mr. Sachin Puri, Sr. Adv. with Mr.
Praveen Kumar, Ms. Mehak, Advs.
for JD No.1.

Mr. Gurmehar S. Sistani, Adv. for
JD-2.

Mr. Ashish Virmani & Mr. K. Bose,
Advs. for the applicant in EA
No.608/2016.

Mr. Amit Sachdeva, Sr. Manager,
Kotak Mahindra Bank, Nehru Place,
New Delhi.

CORAM:

HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW

ORDER

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19.09.2016

EA No.609/2016 (for exemption) & EA No.610/2016 (for condonation of 5 days delay in re-filing EA No.608/2016)

1. Allowed, subject to just exceptions.
2. The applications are disposed of.

EX.P. 65/2016, EA No.312/2016 (for *ex parte* ad-interim orders) & EA No.608/2016 (of the 21 objectors to the attachment effected approximately of Rs.77,00,000/- lying in account of the judgment debtor with the KMB, Nehru Place, New Delhi)

3. In response to the earlier order dated 11th August, 2016, Mr. Amit Sachdeva, Senior Manager, Kotak Mahindra Bank (KMB), Nehru Place,

New Delhi has appeared and has handed over the documents sought and which are taken on record.

4. Mr. Amit Sachdeva, Senior Manager, KMB, Nehru Place, New Delhi on enquiry states that the said account was not an escrow account. On further enquiry whether there were any special instructions existing with respect to the said account, he states that the only instructions were qua operation of the account i.e. the persons who were authorized to issue cheques therefrom of value upto Rs.5,00,000/- and the persons who are authorized to issue cheques of more than Rs.5,00,000/-.

5. I have enquired from the counsels whether any further information is required from Mr. Amit Sachdeva, Senior Manager, KMB, Nehru Place, New Delhi.

6. They answer in the negative.

7. The KMB and / or Mr. Amit Sachdeva, Senior Manager, KMB, Nehru Place, New Delhi are discharged from further appearance in the Court unless so directed.

8. The counsel for the decree-holder states that the proposals for amicable settlement handed over by the counsel for the judgment-debtor no.1 on the last date of hearing are not found to be workable.

9. The counsel for the judgment-debtor no.2 states that the judgment-debtor no.2 is present in person; that the judgment-debtor no.2 had preferred Execution First Appeal (OS) No.21/2016 which was listed today and vide today's order, the operation of Para 9 of the order dated 11th August, 2016 has been stayed till further orders.

10. The counsel for the decree-holder seeks execution of the decree by attachment of the immovable properties of the judgment-debtor no.1.
11. The senior counsel for the judgment debtor no.1 states that a reading of the order dated 10th February, 2015 read with the settlement agreement dated 11th September, 2014 before the Mediation Cell of this Court, of which execution is sought, shows that there is no liability of the judgment-debtor no.1 in the CS(OS) No.278/2011 (or order wherein this execution is filed) and the liability is under the decree passed in CS(OS) No.2183/2013.
12. The counsel for the decree-holder agrees and states that execution has wrongly been filed in CS(OS) No.278/2011 instead of in CS(OS) No.2183/2013.
13. The counsel for the decree-holder withdraws the execution with liberty to apply in appropriate suit in accordance with the settlement agreement aforesaid.
14. On request of the counsel for the decree-holder, the attachment already effected with respect to the monies lying in account bearing No.5011637955, KMB, Nehru Place, New Delhi is continued till 30th September, 2016. If there is no order attaching the said amount in a fresh execution to be filed by the decree-holder, the said attachment shall lapse on the midnight of 30th September, 2016. KMB, Nehru Place, New Delhi is restrained, till midnight of 30th September, 2016, from allowing the amount of about Rs.77,00,000/- to be released in favour of any person whatsoever.
15. The execution petition is dismissed as withdrawn with liberty aforesaid.

RAJIV SAHAI ENDLAW, J

SEPTEMBER 19, 2016/‘gsr’

EX.P. 65/2016..

Page 3 of 3