

\$~23

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

+ CM(M) 416/2016

M/S L & T FINANCE LTD

..... Petitioner

Through

Mr.Punit K.Bhalla & Ms.Chetna
Bhalla, Advocates

versus

BILKEESH BANO & ANR

..... Respondents

Through

None.

CORAM:

HON'BLE MR. JUSTICE JAYANT NATH

ORDER

%

30.09.2016

1. By the present petition, the petitioner seeks to impugn the orders dated 03.03.2016 and 06.04.2016.
2. The execution petition was filed by the petitioner on 03.10.2015. It transpires that a settlement had arrived at between the petitioner/decreed holder and respondent/ judgment debtor on 22.12.2014.
3. As despite a settlement the execution petition was filed, the trial court issue notice to all the Directors of the decree holder/petitioner to show cause why the complaint be not made against them under Section 340 Cr.P.C. for commission of offence under Section 209 IPC.
4. The learned counsel for the petitioner points out that on 03.03.2016 itself even prior to issue of notice under Section 340 Cr.P.C., the petitioner had sought to withdraw the execution petition. He also submits that the matter has been settled and finally the execution petition was dismissed as

withdrawn being satisfied. The learned counsel also submits that the execution petition was actually filed on 08.12.2014 and not on 03.10.2015 as noted by the trial court.

5. On the last date of hearing, the court had issued notice to the respondent but the respondent is not served. However, in my opinion, no purpose is served by sending a fresh notice to the respondent. The trial court initiated the proceedings under Section 340 Cr.P.C. not at the behest of the respondent but *suo moto* cognizance was taken by the court.

6. Normally, a court is not obliged to initiate proceedings under Section 340 Cr.P.C. unless it is expedient in the interest of justice. The expediency is to be judged having regard to the fact that such commission of offence has on the administration of justice(Ref: *Iqbal Singh Marwah and Anr. v. Meenakshi Marwah and Anr*, AIR (2005) SC 2119).

7. The above facts show that the petitioners appear to have inadvertently filed the execution petition. No substantial injury appears to have been caused to the respondent and neither has he complained of any. Accordingly, the impugned orders dated 03.03.2016 and 06.04.2016 are quashed.

8. The petition stands disposed of.

JAYANT NATH, J.

SEPTEMBER 30, 2016/v