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

+ EX.P. 117/2016

M/S 44 NOIDA INFRATECH (TWO) PRIVATE LIMITED

..... Decree Holder

Through: Mr. Suhail Dutt, Senior Advocate
with Mr. Abhishek Seth, Mr. Abhixit Singh,
Mr. Abhirath Thakur and Mr. Rajiv M. Brahma,
Advocates

versus

SANWARIYA GAS LIMITED AND ORS Judgement Debtors

Through: Mr. Prabodh Shukla, Advocate for JD-1
to JD-3 and JD-6 to JD-10.

CORAM:

HON'BLE MS. JUSTICE HIMA KOHLI

ORDER

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29.08.2016

E.A. 566/2016 (exemption)

Subject to the Decree Holder filing the original/certified/typed/legible copies of the documents annexed with the petition within four weeks, the application is allowed and disposed of.

EX.P. 117/2016 and E.A. 565/2016 (for interim relief)

1. Issue notice.
2. Learned counsel enters appearance for the Judgment Debtors No.1 to 3 and 6 to 10. A complete set of the paper book has been handed over to him.

3. Mr. Suhail Dutt, learned Senior Advocate appearing for the Decree Holder states that the Judgment Debtor No.1/company is in default of the order dated 27.08.2014 passed in CS(OS) 194/2014, in terms of MOU dated 13.08.2014, whereunder the Judgment Debtor No.1 was required to pay a sum of Rs.14,75,00,000/- to the Decree Holder. It is submitted that out of the aforesaid agreed amount, the Decree Holder has only received a sum of Rs.2.19 crores, thus leaving an outstanding amount of Rs.12.56 crores. He submits that under the MOU dated 13.08.2014, it was agreed that if the Judgment Debtor No.1/company commits nine defaults in making the monthly payments as per the schedule drawn thereunder, then it shall transfer 51% of the shareholdings in the company in favour of the Decree Holder. But the Judgment Debtors have committed more than nine defaults by now due to which, the Decree Holder has been compelled to file the present execution petition.

4. Counsel for the Judgment Debtors No.1 to 3 and 6 to 10 disputes the submission made above and states that the consent decree dated 27.08.2014, was superseded by the Conciliation Agreement dated 12.09.2014 executed between the parties, whereunder it was agreed that a sum of Rs.9.25 crores would be payable by the Judgment Debtor No.1/company to the Decree Holder in terms of the schedule set out in the said Agreement and as on 31.8.2016, the Judgment Debtor No.1 has paid the Decree Holder more than the amount that is payable.

5. Replies to the execution petition be filed by the Judgment Debtor No.1 to 3 and 6 to 10 within four weeks with copies to the other side. Rejoinders shall be filed within two weeks thereafter.

6. Having regard to the fact that the Judgment Debtors No.1/company and majority of the Judgment Debtors, (directors of the Judgment Debtor No.1) are based in UP/West Bengal and the immovable assets of the Judgment Debtor No.1 mentioned by the Decree Holder in the interim application are situated in UP, it is deemed appropriate to issue a transfer certificate in favour of the Decree Holder, transferring the present petition to the competent court situated at Bullandshehar, UP, for further proceedings.
7. The parties shall appear before the competent court at Bullandshehar, UP on 28.09.2016.
8. As counsel for the Judgment Debtors No.1 to 3 and 6 to 10 is present today, he is directed to ensure that the said Judgment Debtors are duly represented on the date fixed before the competent court.

HIMA KOHLI, J

AUGUST 29, 2016

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