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

+ **CM(M) 847/2016**

K P GUPTA Petitioner

Through: Mr. Kushagra Bansal, Advocate.

versus

RAJESH MITTAL & ORS Respondents

Through: Mr. Sanjay Kumar, Advocate for R-1 with
respondent No.1 in person.

CORAM:

HON'BLE MR. JUSTICE JAYANT NATH

ORDER

% **30.08.2016**

C.M. Nos.31565-31566/2016 (for exemption)

Allowed, subject to all just exceptions.

CM (M) No.847/2016 & C.M. No.31564/2016 (for stay)

1. By the present petition, the petitioner seeks to impugn four orders dated 10.4.2015, 19.12.2015, 13.5.2016 and 12.8.2016. I may note that earlier also a petition was filed by the petitioner where he had again impugned orders dated 13.5.2016 and 10.6.2016.

2. There is no mention of the fact that the said earlier petition being CM (M) No.759/2016 was dismissed by this court on 8.8.2016. In my opinion, on this ground itself the present petition is liable to be dismissed.

3. Be that as it may, the brief facts which have been noted in the order of this court dated 8.8.2016 in CM(M) No. 759/2016 are as follows :-

“2. The brief facts to the filing of the petition are that respondent No.1 had filed a suit against the petitioner which was decreed on 18.04.2012. The relevant part of the decree reads as follows:

“The plaintiff shall be entitled to recover damages/mesne profits from defendant No.1 @ Rs.15,000/- p.m. w.e.f. 01.05.2008 till 25.04.2011. The plaintiff shall also be entitled to simple interest @ 15% p.a. on the damages awarded to him for delayed payment. Defendants have also deposited certain amount in the court.”

3. Respondent No.1 thereafter filed the present execution petition on 10.04.2015. On 13.05.2016, the trial court in the said petition issued fresh notice/warrants to the companies SRF Ltd. and Synofi India with the directions to transfer the attached shares of the JDs/the petitioner in the name of the decree holder/the respondents.

4. On 10.06.2016 the trial court noted that the representatives of the companies sought two months time for issuance of duplicate share certificate in the name of the decree holder subject to submission of documents by the decree holder to complete formalities. The matter has been adjourned to 12.08.2016. These two orders dated 13.05.2016 and 10.06.2016 have been challenged before this court.

5. The learned counsel for the petitioner has submitted that the decree passed is an ex-parte decree and appeal against the same is pending. He also submits that so far as directions to transfer the share of SRF Ltd. and Synofi India are concerned, that is also illegal as the registered offices of the SRF Ltd. and Synofi India are

not in Delhi. Hence, this Court does not have territorial jurisdiction. Other objections are also raised stating that some of the shares are in the joint name of the petitioner and his wife. Reliance is also placed on a reply submitted to the Company Secretary, by Sanofi India Limited stating the procedure for transfer of share.

6. The learned counsel for the respondents has pointed out that the decretal amount is more than Rs.9/- lakhs and no amount was paid by the petitioner. He submits that the attachment order was passed on 05.03.2014 and objections filed by the petitioner were dismissed by the court on 19.12.2015.

7. A perusal of the order dated 19.12.2015 shows that the trial court noted the contention of the petitioner that the court has no territorial jurisdiction to entertain the execution petition as the situs of the share is not located within the jurisdiction of this court. The trial court dismissed the said objection holding that the situs of the shares lies at the registered office of the company or the place where the share can be dealt by way of transfer. Admittedly, hence the objections of the petitioner regarding the situs of the share/jurisdiction of the trial court had been dealt with by an earlier order dated 10.04.2015. The said order is admittedly not the subject matter before the court. Hence, the contention of the petitioner regarding the territorial jurisdiction as raised to impugn the orders dated 13.05.2016 and 10.06.2016 cannot be considered in the present petition. Regarding other issues namely, that the wife of the petitioner is a joint holder of the share and some payments have been made by the petitioner, these are issues to be dealt by the executing court.”

4. A perusal of the above order shows that this court had noted that the issue of situs of shares/jurisdiction of the trial court has been dealt with by an earlier order dated 10.4.2015.

5. Hence, now by the present petition, the petitioner has chosen to impugn the order dated 10.4.2015. The same contentions are repeated here again, namely, that the directions to transfer the shares of SRF Limited and Synofi India are illegal as their registered offices are not in Delhi and hence this court has no territorial jurisdiction to direct the shares to be transferred in the name of the decree holder.

6. It was noted that the registered office of SRF Limited is in Delhi. So far as Synofi India is concerned, they have not objected to the directions passed by the trial court.

7. In view of the above, I feel no reason to entertain the present petition. I may also note that the petition is highly belated as it seeks to challenge the order dated 10.4.2015 which was passed more than 16 months back. It also appears to have been filed only on account of observation in the order dated 8.8.2016 in CM(M) 759/2016 made by this court. Accordingly, the present petition is dismissed.

JAYANT NATH, J.

AUGUST 30, 2016
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