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

+ CM(M) 1204/2016

M/S GREEN VENTURES SECURITIES PVT LTD..... Petitioner
Through Mr.Gaurav Mahajan & Mr.Lokesh
Chopra, Advocates

versus

MEENU JAIN Respondent
Through None.

CORAM:

HON'BLE MR. JUSTICE JAYANT NATH

ORDER

% **06.12.2016**

CM No. 43773-774/2016 (*exemptions*)

Allowed subject to all just exceptions.

CM(M) 1204/2016 & CM Nos. 43771-772/2016

1. By the present petition filed under Article 227 of the Constitution of India, the petitioner seeks to impugn the order dated 24.09.2016 by which an application filed by the petitioner under Order 37 Rule 3(5) CPC was allowed subject to deposit of an amount of Rs.72,70,000.00 in the form of an FDR in the name of the court from a nationalised bank on auto renewal basis.
2. The respondent has filed a suit under Order 37 of the CPC for recovery of Rs.1,85,40,000.00 towards principal amount and Rs.5,40,000.00 towards interest.
3. It is the case of the respondent that she is closely related to the director of the petitioner company. Sometimes in the year 2012, the

respondent sold her immovable property and invested the sale proceeds in the petitioner company on interest basis. According to the respondent, her late husband had also deposited various amount w.e.f. July, 2012. Keeping in account the fact that an amount of Rs.70,00,000.00 was invested from her account and from the account of Sh.Amit Vohra, son-in-law of the respondent and the interest accruing on the above said deposited amount was being reinvested by the petitioner and the same swelled to Rs.1,02,00,000.00. The husband of the respondent was expired on 31.01.2013. On 01.02.2013 the petitioner company acknowledged in writing to the son of the respondent Sh.Sahil Jain that as on 01.02.2013 the investment of Rs.1,02,00,000.00. Subsequently, it is urged that a settlement was arrived at and as a consequence of which the petitioner company issued two undated cheques amounting to Rs.1,80,00,000.00, i.e. bearing cheque No.000830 for Rs.30,00,000.00 and other cheque No.000831 for Rs.1,50,00,000.00 with the request that the same may be presented for encashment in the last week of December, 2015. When the cheques were presented for encashment, the same were dishonoured with the remarks “refer to drawer”. Based on the above, the present suit has been filed.

4. The trial court by the impugned order noted the defence of the petitioner namely that the amount was invested in shares by the husband of the respondent and after his death, by the son of the respondent Sh. Sahil Jain and that whatever value of investment was left after trading has been paid to Sh.Sahil Jain, son of the respondent. The trial court rejected this contention of the petitioner as no such thing is mentioned in the acknowledgement given by the petitioner regarding the outstanding liability of Rs.1,02,00,000.00. Further, no details are forthcoming about the manner

and details of investment in shares by the late husband of the respondent and Sh.Sahil Jain. The trial court further noted that the petitioner had not specifically denied the statement of account filed by the respondent alongwith reply to the application for leave to defend as annexure A. In that annexure a sum of Rs.72,70,000.00 is said to have been given to the petitioner by cheques by the respondent from her account and from the account of Sh.Amit Vohra, son-in-law of the respondent. Based on that the impugned order has been passed.

5. The learned counsel appearing for the petitioner has vehemently argued that annexure A relied upon by the respondent itself shows that the respondent has paid only Rs.43,70,000.00 to the petitioner. Balance cheques have been issued by Sh.Amit Vohra who is not a party to the present suit and hence no reliance can be made on the payment made by Sh.Amit Vohra. He also submits that undated cheques have been given to the respondent as a part of different transactions and the same have been fraudulently missed by the respondent.

6. Article 227 of the Constitution of India reads as follows:

“227. Power of superintendence over all courts by the High Court.

(1) Every High Court shall have superintendence over all courts and tribunals throughout the territories interrelation to which it exercises jurisdiction
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Hence, this court has limited power of superintendence over the trial court. This is not a court of appeal.

7. There are two main things which stand out in the present case. Firstly, are the undated cheques issued by the petitioner in favour of the respondent

for Rs.1,80,00,000.00, i.e. bearing cheque No.000830 for Rs.30,00,000.00 and other cheque No.000831 for Rs.1,50,00,000.00 and secondly is the acknowledgment issued by the petitioner on 01.02.2013 acknowledging the liability of Rs. 1,02,00,000.00.

8. In my opinion, there are no reasons to interfere with the impugned order. The present petition is accordingly dismissed. All the pending applications are also disposed of.

JAYANT NATH, J.

DECEMBER 06, 2016/v