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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ EX.P. 151/2016, EA No.784/2016 (u/S 151 CPC) & EA No.818/2016
(of DH for transfer of judgment & decree)

ESS AAR UNIVERSAL PVT LTD Decree Holder
Through: Mr. D.K. Rustagi & Ms. Medha Arya,
Advs.

Versus

RUCHI JAIN & ORS Judgement Debtors
Through: None.

CORAM:

HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW

ORDER

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14.12.2016

1. This order is in continuation of the earlier order dated 28th November, 2016.
2. The counsel for the decree-holder draws attention to the judgment of the Division Bench of this Court in *Gulab Chand Sharma Vs. Saraswati Devi* AIR 1975 Delhi 210 laying down that to safeguard the rights acquired under the decree passed by a court which ceases to have jurisdiction to execute it according to its tenor, provision has been made under Section 37(b) of the CPC enabling the decree-holder to make an application for execution either to that Court or to the Court which, if the suit wherein the decree was passed was instituted at the time of making application to execute a decree would have jurisdiction to try the suit and that Court which actually passed the decree does not lose its jurisdiction to entertain the execution petition notwithstanding the fact that its pecuniary jurisdiction has been altered. Attention is also invited to *Pearey Lal & Sons (Pvt.) Ltd. Vs. Jamuna Properties (P) Ltd.* AIR 2004 Delhi 126 laying down that the

words “the Court of first instance has ceased to exist” in Section 37(b) envisage abolition or total extinguishment of the Court which passed the decree and not mere alteration of its pecuniary or territorial jurisdiction.

3. Even as per the aforesaid dicta, it is open to the decree-holders of decrees in suits now below the minimum pecuniary jurisdiction of this Court to approach the Court of the District Judge for execution.

4. Considering the reason for which enhancement of the minimum pecuniary jurisdiction of this Court was proposed by the Full Court of this Court and accepted by the legislature, if the executions continue to be entertained by this Court, the said reason would stand defeated and nullify the purpose of the amendment. Even otherwise, this Court has not been entertaining execution petition of decrees which are below the enhanced minimum pecuniary jurisdiction of this Court; no ground for making an exception in this case and / or for discriminating in favour of the decree-holder and against others is made out.

5. It is therefore deemed appropriate to not entertain this execution petition.

6. Accordingly, the execution petition is rejected with liberty to the decree-holder to approach the Court of appropriate pecuniary jurisdiction.

7. The counsel for the decree-holder states that the attachment before judgment earlier ordered was till filing of the execution.

8. It is made clear that the filing of this execution petition in this Court will not be treated as the filing of the execution petition.

RAJIV SAHAI ENDLAW, J

DECEMBER 14, 2016/‘gsr’..

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