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

EX.P. 159/2016

D.D. PROPERTIES PVT. LTD Decree Holder
Through: Mr. Siddharth Bambha, Adv.

Versus

NARESH KUMAR BANSAL Judgement Debtor
Through: None.

AND

+ EX.P. 160/2016

D.D. PROPERTIES PVT. LTD Decree Holder
Through: Mr. Siddharth Bambha, Adv.

Versus

CHANDER MUNI TYAGI Judgement Debtor
Through: None.

CORAM:

HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW

ORDER

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16.12.2016

1. Both petitions seek execution of the same decree but against different defendants/judgment debtors.
2. The petitioner/decreed holder has not adopted the format prescribed in Code of Civil Procedure, 1908 (CPC) for applying for execution and appears to have copied pasted the format of an execution petition earlier filed for execution of an arbitral award having the force of the decree. Similarly, the decreed holder, at some places is described as D.D. Property Pvt. Ltd. and at other as D.D. Property Ltd. without any explanation in this regard. Such errors while drafting cause confusion while reading the paper book and in

adjudication and the counsel, before signing, should have read the document which he was signing.

3. Though the valuation of the suit, of decree wherein execution is sought was above the enhanced minimum pecuniary jurisdiction of the Court but the plaintiff/decreed holder gave up that relief and confined the relief in the suit to recovery of an amount less than the enhanced minimum pecuniary jurisdiction of the Court. The decree now sought to be executed is for recovery of Rs.21 lakhs odd and for Rs.51 lakhs odd and in view of the enhancement of pecuniary jurisdiction of this Court these execution petitions ought to have been filed in the Court now having jurisdiction to entertain the execution.

4. Though the Registry of this Court raised objection in this regard but the counsel for the petitioner/decreed holder insisted upon listing of the matters before this Bench.

5. The counsel for the petitioner/decreed holder states that since the decree was passed by this Court, execution petition has to be filed in this Court and thereafter to be transferred to the Court of the District Judge. Reference in this regard is invited to Order XXI Rule 6 of CPC.

6. The reference to Order XXI Rule 6 of CPC is misconceived. The proper provision in this regard is Section 37 of CPC as per which, on change in pecuniary jurisdiction, the definition of the “Court which passed decree” would stand changed. Though this Court may also have jurisdiction to entertain the execution but if this Court, notwithstanding the enhancement of its pecuniary jurisdiction, continues to entertain execution petitions which ought to be filed before the Subordinate Courts, then the very purpose of

enhancement of the pecuniary jurisdiction would be lost and defeated.

7. The execution petitions thus have to be rejected to be filed in the Court of appropriate pecuniary jurisdiction.

8. While doing so, I may also observe that in Ex.P. No.159/2016 execution of money decree is sought by attachment of a property at Ghaziabad, Uttar Pradesh. The petitioner/decreed holder, if desires execution by attachment of immovable property at Ghaziabad, ought to have sought transfer of the decree to the Court within whose jurisdiction the immovable property is situated and which has not been done.

9. Rejected with liberty aforesaid.

RAJIV SAHAI ENDLAW, J.

DECEMBER 16, 2016

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