

\$~20.

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

+ **EX.P. No.163/2016**

NITIN ARORA

..... Decree Holder

Through: Mr. S.K. Sharma, Mr. Rahul Sharma
and Mr. Umang Chopra, Advs.

versus

YASHODA NAND SHARMA & ORS.

..... Judgment Debtors

Through: None.

CORAM:

HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW

ORDER

% **20.12.2016**

EA No.852/2016 (for exemption).

1. Allowed, subject to just exceptions.
2. The application is allowed.

EX.P. No.163/2016.

3. The petition seeks execution of a decree, in terms of Settlement Agreement dated 26th September, 2012 in RFA(OS) No.119/2011, by auction of the property.
4. A perusal of the Settlement Agreement at pages 18, 21 and 22 of the paper book shows that before the judgment debtors were required to sell the property along with the decree holder, the leasehold land underneath the property had to be converted into freehold and property had to be mutated in the name of the judgment debtors and the responsibility whereof was of the decree holder.
5. It has thus been enquired from the counsel for the decree holder whether the decree holder has performed his part of the decree.

6. The counsel for the decree holder invites attention to para 10 of the execution where it is stated that the property in question stands mutated in favour of the judgment debtors.
7. However no document in that respect has been filed.
8. There is no averment even in the execution petition of the conversion of leasehold rights in the land underneath into freehold in favour of the judgment debtors.
9. The counsel for the decree holder states that he will have to obtain instructions in this regard.
10. The decree, on the averments in the execution petition, is not executable.
11. The execution petition is thus misconceived and is rejected.
12. The counsel for the decree holder at this stage withdraws the execution petition with liberty to file afresh.
13. Dismissed as withdrawn with liberty aforesaid.

RAJIV SAHAI ENDLAW, J

DECEMBER 20, 2016

‘pp’..