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

+ CM No.25973/2016 in FAO(OS) 677/2015

MOHAN LAL KUKREJA

..... Appellant

Represented by: Mr.S.K.Dubey, Advocate with
Ms.Geetika Kapur, Mr.Udit
Mallik and Mr.Varun Mathur,
Advocates.

versus

SUDNER KUKREJA & ORS

..... Respondents

Represented by: Mr.Rajiv Nayar, Senior
Advocate instructed by
Mr.Navin Chawla, Ms.Sonali
Jaitley Bakshi, Mr.Jaiyesh
Bakshi, Ms.Ranjana Jetley,
Mr.Shashi Shekhar, Mr.Ravi
Tyagi, Ms.Sanya Kapoor,
Mr.Ricky Kundra, Mr.Aditya
Singh and Mr.Sourabh Seth,
Advocates.

AND

+ CM No.3334/2016 and CONT.CAS(C) 25/2016

SUNDER KUKREJA & ANR

..... Petitioners

Represented by: Mr.Rajiv Nayar, Senior
Advocate instructed by
Mr.Navin Chawla, Ms.Sonali
Jaitley Bakshi, Mr.Jaiyesh
Bakshi, Ms.Ranjana Jetley,
Mr.Shashi Shekhar, Mr.Ravi
Tyagi, Ms.Sanya Kapoor,
Mr.Ricky Kundra, Mr.Aditya
Singh and Mr.Sourabh Seth,
Advocates.

versus

MOHAN LAL KUKREJA

..... Respondent

Represented by: Mr.S.K.Dubey, Advocate with
Ms.Geetika Kapur, Mr.Udit
Mallik and Mr.Varun Mathur,
Advocates.

CORAM:

HON'BLE MR. JUSTICE PRADEEP NANDRAJOG

HON'BLE MS. JUSTICE PRATIBHA RANI

ORDER

% **03.08.2016**

1. Dispute between five brothers concerning a partnership firm, carrying on business under the name and style D.R.Kukreja & Co. was referred to the sole arbitration of Justice (Retd.) D.P.Wadhwa. The partnership firm has an asset where Sapna Cinema is established.
2. Case pleaded by Mohan Lal Kukreja and his brother Madan Lal Kukreja was that on August 16, 1990 a deed of retirement was executed as per which the entire business of the partnership firm was assigned to Mohan Lal Kukreja. The other three brothers, namely : Sunder Kukreja, Raj Kumar Kukreja and Ram Chandra Kukreja opposed the stand and pleaded that the deed of retirement was a forged document.
3. Vide award dated May 26, 2014 the stand taken by Mohan Lal Kukreja and Madan Lal Kukreja was negated and the one taken by Sunder Kukreja, Raj Kumar Kukreja and Ram Chandra Kukreja was accepted. It was held that no deed of dissolution was executed on August 16, 1990. The final direction in the award is that Sunder Kukreja, Raj Kumar Kukreja and legal heirs of Ram Chandra Kukreja are entitled to ₹7,36,227.26 each

together with interest @ 18% per annum from April 01, 2009. The three were held entitled to cost in sum of ₹3 lacs each. The sum of ₹7,36,227.26 was towards the share of the three brothers (successor-in-interest of one brother who had died) from 1991 to 2009 in the profits of the partnership firm.

4. The result of the award would be that the three claimant brothers would be additionally entitled to rendition of accounts post April 01, 2009 till date.

5. When the two appeals filed by Mohan Lal Kukreja and Madan Lal Kukreja were listed for hearing after notice on December 22, 2015, an interim order was passed by the Division Bench in the appeal filed by Mohan Lal Kukreja. The interim order was on agreed terms. It was directed that the three brothers who had succeeded before the learned Arbitrator shall nominate one person who would be a Chartered Accountant/Accountant to receive the accounts from the Accountant of Mohan Lal Kukreja. The person nominated will be entitled to sit with the Accountant of Mohan Lal Kukreja and observe the accounting procedure. The claimant brothers were entitled to nominate two persons to observe the collections at the Cafeteria. At the end of the day the account statement of the Cafeteria would be signed by the said persons. It is agreed that the CCTVs installed at the Sapna Cinema premises shall record in the hard disk the movements within the precincts and the recording would not be deleted.

6. Vide CM No.3334/2016 Mohan Lal Kukreja seeks a modification/clarification. The clarification sought is that the accounts referred to is the statement of the tickets sold and the daily collection from the Cafeteria only.

7. Due to dispute between the two warring groups the Cinema is currently lying closed and thus counsel agree that there is no necessity for anyone to supervise the collection either at the Cafeteria or the counter from where the tickets are sold. Even otherwise most of the tickets are being purchased online these days.

8. The challenge to the award by Mohan Lal Kukreja and Madan Lal Kukreja failed. The decision of the learned Single Judge has been upheld by the Division Bench.

9. The contempt petition has been filed alleging violation of the consent order dated December 22, 2015. In the dock is Mohan Lal Kukreja.

10. The result of the award being upheld by the learned Single Judge and the Division Bench of this Court would mean that the award has to be given effect to unless the same is interdicted by the Supreme Court. As of today there is no order from the Supreme Court.

11. Under the circumstances the only way forward is to appoint a Receiver to take charge of the accounts books of the Sapna Cinema, which is the only business of the partnership firm. The account books would be the ones maintained for the period post April 01, 2009 till as of date. The account books would be of D.R.Kukreja & Co. Mohan Lal Kukreja who is in possession of the same is directed to handover the book of accounts for the aforesaid period to the Receiver namely Mr.Praval Arora, Advocate, Mobile No.8800000200.

12. Compliance would be made within four days from today and if not made the Receiver would be entitled to police aid and seize the account books post April 01, 2009 till date.

13. Fee of the learned Local Commissioner is fixed at Rs.1,00,000/-

(Rupees One Lakh only) and initially it shall be paid jointly by Sunder Kukreja and Raj Kumar. It would be immediately reimbursed to them by Mohan Lal Kukreja. We are directing as aforesaid lest Mohan Lal Kukreja creates obstructions in the execution of this order by not paying the money to the Receiver. If for some reason Mohan Lal Kukreja does not reimburse the money to Sunder and Raj Kumar they would be entitled to move an application in this Court payment of Rs.1,00,000/- from out of the sum of Rs.1 crore deposited by Mohan Lal in terms of orders passed by the Supreme Court.

14. As regards the sum decreed in favour of the claimants as per the award, Mohan Lal Kukreja has deposited a sum of ₹1 Crore in this Court.

15. We direct the Registry to disburse ₹7,36,227.26 each to Sunder Kukreja and Raj Kumar Kukreja calculating interest thereon @ 18% per annum from April 01, 2009 till ₹1 Core was deposited pursuant to orders passed by the Supreme Court in the Registry of this Court and on the sum of ₹7,36,227.26 said interest would additionally be paid to the two. The two brothers would additionally be disbursed cost awarded to them in sum of ₹3 lacs each.

16. Learned Senior Counsel for the widow, daughter and sons of deceased Ram Chandra Kukreja states that the sum payable to Ram Chandra Kukreja together with interest be paid by the Registry to Chander Kukreja – widow of Ram Chandra Kukreja and this would be treated as a satisfaction of the sum as per the award qua all the four legal heirs of Ram Chandra Kukreja.

17. Accordingly we direct the Registry to disburse ₹7,36,227.26 together with interest thereon @ 18% per annum from April 01, 2009 till ₹1 Core

was deposited pursuant to orders passed by the Supreme Court in the Registry of this Court as also the cost awarded in sum of ₹3 lacs payable to Ram Chander Kukreja to his widow i.e. Chander Kukreja.

18. Balance sum together with accrued interest thereon be retained in a fixed deposit.

19. Hoping that there would be compliance with the present order so that there is no further interim application filed in FAO(OS) 677/2015 and Cont.Case(C) No.25/2016, CM No.25937/2016 in FAO (OS) No.677/2015 and CM No.3334/2016 in Cont.Cas.(C) No.25/2016 are disposed of.

20. FAO(OS) No.677/2015 be consigned to the Record Room.

21. Copy of the order be given dasti to learned counsel for the parties under the signature of Court Master.

Cont.Case(C) No.25/2016

List for directions on September 15, 2016 to ensure compliance with the order passed hereinabove.

PRADEEP NANDRAJOG, J.

PRATIBHA RANI, J.

AUGUST 03, 2016

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