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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ EX.P. 182/2002, EA Nos.358/2002 (u/O XXI R-54 CPC) & 948/2015
(u/S 151 CPC)
STEEL AUTHORITY OF INDIA LTD. Decree Holder
Through: Mr. Sharat Kapoor, Adv.
Versus
CAPITAL INDUSTRIES & ORS. Judgement Debtors
Through: Mr. N.P. Gaur, Adv. for JD-3.
AND
EX.P. 183/2002, EA No.140/2013 (for revival of Execution Petition)
STEEL AUTHORITY OF INDIA LTD. Decree Holder
Through: Mr. Sharat Kapoor, Adv.
Versus
COLET STEELS PVT. LTD. & ANR. Judgement Debtors
Through: None.

CORAM:

HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW

ORDER

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12.01.2017

1. Execution sought in Petition No.182/2002 is of a judgment and decree dated 19th November, 2001 in Suit No.1651/1999 for recovery by Steel Authority of India Ltd. (SAIL) of Rs.27,66,622/- with *pendente lite* and future interest at the rate of 27% per annum from the date of institution of the suit till realisation and cost of Rs.29,710.10 paise from M/s Capital Industries and its partners Sh. Prakash Vij and Sh. Dinesh Vij.
2. Execution sought in Petition No.183/2002 is of a judgment and decree dated 19th November, 2001 in Suit No.1650/1999 for recovery by SAIL of Rs.1,30,59,666/- with interest at the rate of 27% per annum *pendente lite* and future from the date of institution of the suit till realization from M/s Colet Steels Pvt. Ltd., Sh. Prakash Vij, Sh. Rajiv Kumar and Sh. Viney Kumar.

3. Sh. Rajiv Kumar and Sh. Viney Kumar though initially shown as judgment-debtors in the execution but were dropped on the statement of the counsel for the decree-holder SAIL on 15th November, 2002.
4. Both execution petitions as aforesaid have been pending for the last 14 years.
5. Only the counsel for the decree-holder SAIL and the counsel for the judgment-debtor no.3 Dinesh Vij in Execution Petition No.182/2002 appear. None appears for any of the other judgment-debtors.
6. The counsel for the decree-holder SAIL states that except for the counsel for the judgment-debtor Dinesh Vij none has been appearing for the other judgment-debtors.
7. On 28th November, 2016 and as recorded in the order of that date in Execution Petition No.182/2002, the counsel for the decree-holder SAIL stated that the judgment-debtors had proposed to settle the entire decretal amount by payment of Rs.2.37 crores, of which Rs.93 lacs had been offered to be paid at the time of recording of settlement, Rs.67 lacs within six months thereof and balance Rs.67 lacs within further six months therefrom. It was stated that the competent authority of the decree-holder SAIL was still to consider the said proposal of the judgment-debtors.
8. Accordingly, vide the said order dated 28th November, 2016, the concerned authority of the decree-holder SAIL was directed to take the decision in this regard before today.
9. The counsel for the decree-holder SAIL today states that the concerned authority of decree-holder SAIL has agreed that the decree subject matter of both execution petitions shall stand satisfied on payment

by the judgment-debtors of the sum of Rs.2.37 crores as aforesaid to the decree-holder SAIL.

10. He states that Memorandum of Understanding (MoU) will be signed in this regard when the judgment-debtors give the pay order / bank draft for Rs.93 lacs.

11. The counsel for the judgment-debtor Dinesh Vij states that the aforesaid offer was made by the judgment-debtor Dinesh Vij only and the judgment-debtor Dinesh Vij, after the formal acceptance of the said proposal by the decree-holder SAIL shall need two months time to give the initial amount of Rs.93 lacs. He otherwise states that within six months of the payment of the said Rs.93 lacs, another Rs.67 lacs will be paid and within six months therefrom the final instalment of Rs.67 lacs shall be paid.

12. For the aforesaid variation, it is not deemed appropriate to defer the hearing for the competent authority of SAIL to again consider the said variation. The decree-holder SAIL, for the last 14 years, is unable to execute the decrees and it is deemed appropriate that the amount for which the decree holder SAIL has agreed to settle should now be realised by them immediately.

13. I have enquired from the counsel for the judgment-debtor Sh. Dinesh Vij, whether the judgment-debtor Sh. Dinesh Vij is willing to give an undertaking to this Court to make the aforesaid payment and whether he has informed the consequence of breach of undertaking given to the Court to the judgment-debtor Sh. Dinesh Vij.

14. The counsel for judgment-debtor Sh. Dinesh Vij states that judgment-debtor Sh. Dinesh Vij is so willing and has authorized him to give an

undertaking to this Court on his behalf and he has made the judgment-debtor Sh. Dinesh Vij aware of the consequences of breach of undertaking given to the Court.

15. The counsel for the judgment-debtor Sh. Dinesh Vij is further agreeable to it being provided that in the event of any default by the judgment-debtor Sh. Dinesh Vij in making the payments aforesaid, the entire decretal amount becoming recoverable, besides his being liable for consequences of breach of undertaking given to the Court.

16. On enquiry, it is informed i) that judgment-debtor Sh. Dinesh Vij is about 38 years old; ii) that Sh. Prakash Vij though a brother of judgment-debtor Sh. Dinesh Vij is not in touch with judgment-debtor Sh. Dinesh Vij for long; iii) that both M/s Capital Industries and M/s Colet Steels Pvt. Ltd. have been defunct for the last several years and are not carrying on any business.

17. For all the aforesaid reasons also, it is deemed appropriate of this Court to allow this settlement today so that the monies can be recovered by decree-holder SAIL at the earliest.

18. Accordingly, the undertaking of judgment-debtor Sh. Dinesh Vij, son of Mrs. Prem Lata (it is stated that the father of Sh. Dinesh Vij is no more and the counsel for Sh. Dinesh Vij does not know the name of the father), resident of C-753, Sudarshan Park, New Delhi-110015, through counsel, to pay the amounts as provided herein to the decree-holder SAIL is accepted and judgment-debtor Sh. Dinesh Vij is ordered to be bound thereby.

19. Both the execution petitions are disposed of as under:

- (i) Subject to the judgment-debtor Dinesh Vij paying to the decree-holder SAIL a sum of Rs.93 lacs on or before 12th March, 2017, a sum of Rs.67 lacs on or before 12th September, 2017 and a sum of Rs.67 lacs on or before 12th March, 2018, the decree subject matter of both the execution petitions shall stand satisfied.
- (ii) If the judgment-debtor Sh. Dinesh Vij defaults in any of the payment, he shall, besides being liable for consequences of breach of undertaking given to the Court, be also liable for payment of the entire decretal amount as per the decrees under execution.
- (iii) Till the decree is satisfied, attachment of properties bearing No.C-753, Sudarshan Park, New Delhi-110015 and No.A-124, Vikaspuri, New Delhi-110018 shall continue.
- (iv) The other proceedings initiated by the decree-holder SAIL against the judgment-debtors and their other family members under Section 138 of the Negotiable Instruments Act, 1881 or otherwise shall also stand withdrawn / disposed of only when the decree is satisfied as aforesaid and otherwise shall continue.

The parties to bear their own costs.

RAJIV SAHAI ENDLAW, J

JANUARY 12, 2017

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