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

+ **FAO(OS) 212/2004 & C.M. Nos.15603/2007, 9941/2008, 7221-7222/2014, 12532/2015**

DEVIKA MEHRA

..... Appellant

Through: Mr.Darpan Wadhwa, Sr. Advocate
with Mr.Manik Dogra & Ms.Aditi
Mohan, Advocates.

versus

AMMETA MEHRA & ORS.

..... Respondents

Through: Mr.Dayan Krishnan, Sr. Advocate
with Mr.Jeevesh Nagrath, Mr.Rohan
Ganpathy, Mr.Pratham Sharma &
Mr.Sanjeevi Seohadri, Advocates.

CORAM:

HON'BLE MR. JUSTICE VIPIN SANGHI

HON'BLE MS. JUSTICE REKHA PALLI

ORDER

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06.09.2017

We have heard learned Senior Counsels for the parties. The present appeal is directed against the judgment dated 06.10.2014 passed by the learned Single Judge in OMP No.134/2004 whereby the objections preferred by the appellant to the arbitral award dated 31.12.2003 under Section 34 of the Arbitration and Conciliation Act by the Sole Arbitrator was dismissed. During the pendency of this

appeal, the parties signed written settlement agreement which is termed as a 'Agreed Points for Working Out the Final Settlement' on 03.09.2009, which was followed by an addendum dated 12.12.2009. Subject to the terms of settlement contained in the 'Agreed Points for Working Out Final Settlement' dated 03.09.2009 and addendum dated 12.12.2009, the parties accepted the award as final and binding. Before proceeding further, we may observe that Clause 16 of the written settlement agreement had put a time-limit within which the award, read with the said settlement Agreement and the Addendum had to be implemented. The parties agree that they had mutually given a go-bye to the said clause. It appears that this Court kept the matter pending with a view to ensure the working and implementation of the award as modified on 03.09.2009 and 12.12.2009. The parties have worked out quite a few of the terms of the said award read with the subsequent settlement agreement and the addendum. However, it appears that there are some aspects which, admittedly, have not been implemented and, in respect of a couple of aspects, there are differences between the parties as to whether or not they have discharged their respective obligations in this regard.

The two aspects on which the parties are at dispute are the following:-

(i) Certain lands had to be transferred under the settlement situated at Village Bijwasan and Jhunsarai by the respondent to the appellant. While the respondent claims that she has transferred the entire parcel of land as per the settlement, the appellant claims that there is a

shortfall of 0.93 acres at Brijwasan, and shortfall of 0.245 acres at Jhunsarai, since there is encroachment on the said land by third parties. Both parties have filed their affidavits along with documents which they seek to rely upon in these proceedings, relating to the said issue.

(ii) Under the award dated 31.12.2003, both the parties are entitled to one-half of the movables, valuables, memorabilia, shawls, paintings, jewellery etc. This is evident from Paras 23 B(2) at page 10 of the award, and Para 63 of the award. There is a dispute between the parties with regard to the implementation of the respective obligations of the parties arising from the aforesaid clauses. Under the settlement agreement, the respondent agreed to transfer land admeasuring 5.125 acres at Jhunsarai Patli in favour of the appellant. However, on account of the disputes between the parties with regard to implementation of the respective obligations under Paras 23B(2) and 63 of the award, on 19.07.2012, this Court *inter alia* directed that *‘the division of the movable properties being implemented, the remaining approximately five acre of Jhunsarai Patli land will also be transferred to the appellant’*.

From the above, it would be seen that the disputes and difference between the parties are really in relation to the enforcement and satisfaction of the award as modified by the settlement agreement and the addendum. There is no real issue surviving in the appeal, since the parties have accepted the award as modified by the settlement agreement and the addendum. In these circumstances, we

make the award dated 31.12.2003, save and except the modification thereof as contained in the written settlement agreement termed as 'Agreed Points for Working Out Final Settlement' dated 03.09.2009 read with the addendum dated 12.12.2009, as a Decree of Court. However, Clause 16 of the written settlement agreement dated 03.09.2009 stands deleted by the agreement of parties.

In respect of aspects which remain to be implemented between the parties, including the aforesaid two aspects on which there are differences, it shall be open to the parties to initiate executing proceedings. In case, any such proceedings are initiated, it shall be open to the parties to place their respective stands before the Executing Court which have also been articulated by them before this Court, and it would be open to the Executing Court to examine the same in accordance with law. The obligation of the respondent to transfer the land at Jhunsarai Patli admeasuring 5.175 acres in favour of the appellant, shall be enforced only upon resolution of disputes by the Executing Court, regarding division of movable properties in terms of Paras 23 B (2) and 63 of the award.

The appeal is disposed of with the aforesaid.

The pending applications also stand disposed of.

VIPIN SANGHI, J

REKHA PALLI, J

SEPTEMBER 06, 2017/gm