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

+ EX.P. 1/2007

RUBFILA INTERNATIONAL LIMITED Decree Holder

Through: Ms. Athira G. Nair, Adv.

Versus

FILATEX INDIA

..... Judgement Debtor

Through: None.

CORAM:

HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW

ORDER

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12.01.2017

1. The matter is listed today in terms of the order dated 28th November, 2016 of the Registrar (Original).
2. Ms. Athira G. Nair, Advocate who appears for the decree holder, save for stating that the matter is to be transferred to the District Court, does not know anything about the case.
3. Ms. Athira G. Nair, Advocate states that she is a proxy counsel and Mr. B. Raghunath, Advocate is the advocate for the decree holder and has asked her to appear.
4. It is stated that Mr. B. Raghunath, Advocate is in the Supreme Court.
5. Though this execution petition was vide order dated 30th September, 2016 transferred to the District Judge (New Delhi), Patiala House Courts, New Delhi but was returned vide order dated 8th November, 2016 recording that the property of the judgment debtor at 5509, Basti Harphool Singh, Sadar Thana Road, Delhi did not fall within the territorial jurisdiction of the New Delhi District.
6. Before the Registrar (Original) the counsel for judgment debtor stated

that the property of the judgment debtor situated at 5509, Basti Harphool Singh, Sadar Thana Road, Delhi, owing to which the New Delhi District Judge had returned the execution to this Court, is in fact not the property of the judgment debtor and the judgment debtor is in fact residing at Gurgaon, Haryana. Mr. Vishnu Sankar, Advocate appearing for the decree holder did not say anything. For this reason, the Registrar (Original) posted the matter before this Court.

7. I may record that all the aforesaid aspects were considered in the order dated 30th September, 2016 while transferring the execution petition to New Delhi District but the proceeding has suffered this fate owing to the counsel for decree holder not pursuing the matter and not making any submissions before the District Judge, New Delhi or before the Registrar. Appearance on behalf of decree holder on both these dates are found to be as ineffective as today.

8. The decree holder is found to be flogging this execution for the last nine years, without effectively pursuing the same. The order sheet is replete with orders of defaults on the part of the decree holder.

9. The position remains the same today.

10. Dismissed for non-prosecution.

RAJIV SAHAI ENDLAW, J.

JANUARY 12, 2017

11. At this stage, Mr. Sriram Parakkat, Advocate has appeared and withdraws the execution petition.

12. The execution petition is dismissed as withdrawn.

RAJIV SAHAI ENDLAW, J.

JANUARY 12, 2017/bs

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