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

+ CONT.CAS(C) 161/2017 & CM APPL. 7307/2017

BEE GEE ENTERPRISES Petitioner
Through: Ms. Rubal Maini, Advocate.

versus

PUSHPINDER SINGH Respondent
Through: Mr. Ajay Uppal, Advocate.

WITH

+ CONT.CAS(C) 163/2017 & CM APPL. 7313/2017

BEE GEE ENTERPRISES Petitioner
Through: Ms. Rubal Maini, Advocate.

versus

PUSHPINDER SINGH SENIOR VICE PRESIDENT
RELIGARE FINVEST LIMITED Respondent
Through: Mr. Ajay Uppal, Advocate.

WITH

+ CONT.CAS(C) 164/2017 & CM APPL. 7314/2017

SAI APARTMENTS & INFRASTRUCTURES Petitioner
Through: Ms. Rubal Maini, Advocate.

versus

PUSHPINDER SINGH SENIOR VICE PRESIDENT
RELIGARE FINVEST LIMITED Respondent
Through: Mr. Ajay Uppal, Advocate.

WITH

+ CONT.CAS(C) 165/2017 & CM APPL. 7315/2017

BEE GEE ENTERPRISES Petitioner
Through: Ms. Rubal Maini, Advocate.

versus

PUSHPINDER SINGH
RELIGARE FINVEST LIMITED Respondent
Through: Mr. Ajay Uppal, Advocate.

AND

+ CONT.CAS(C) 166/2017 & CM APPL. 7318/2017

BEE GEE ENTERPRISES Petitioner
Through: Ms. Rubal Maini, Advocate.

versus

PUSHPINDER SINGH
RELIGARE FINVEST LIMITED Respondent
Through: Mr. Ajay Uppal, Advocate.

% Date of Decision: 15th March, 2017

CORAM:
HON'BLE MR. JUSTICE MANMOHAN

J U D G M E N T

MANMOHAN, J: (Oral)

1. Present contempt petitions have been filed alleging wilful disobedience of the order dated 16th December, 2015 passed in five OMPs

filed by the petitioners challenging the arbitration award dated 18th December, 2013 whereby the said petitions were disposed of in accordance with the Settlement Agreement dated 30th November, 2015.

2. Learned counsel for the petitioners states that under the Settlement Agreement dated 30th November, 2015, petitioners could repay Rs.8,25,00,000/- to the respondent without interest till 31st March, 2016 and thereafter with interest @ 6% per annum till 30th September, 2016. According to the learned counsel for the petitioners, only if the petitioners had failed to pay the settlement amount by 30th September, 2016, the respondent could have sold the mortgaged property of the petitioners in accordance with the provisions of SARFAESI Act, 2002 or filed execution proceeding.

3. Learned counsel for the petitioners further states that despite the aforesaid Settlement Agreement, respondent filed Execution Petition Nos. 237, 238 and 239 of 2016 on 16th May, 2016 before the Court of Additional District & Sessions Judge, Panchkula, Haryana and Execution Petition Nos. 884 and 888 of 2016 before the Court of Additional District & Sessions Judge, Mohali, Punjab, for execution of arbitral award dated 18th December, 2013.

4. She also states that the Additional District & Sessions Judge, Panchkula, passed an attachment order dated 16th December, 2016 of property bearing SCO No. 393, Sector 20, Panchkula, Haryana.

5. Learned counsel for the petitioner lastly states that the respondent had also contrary to the Settlement Agreement issued three notices dated 29th August, 2016 under Section 13(2) of the SARFAESI Act, 2002 demanding amount of Rs.16,01,88,221.38/- and notices of possession under Section

13(4) of SARFAESI Act, 2002 read with Rule 9 of the Security Interest (Enforcement) Rules, 2002 for taking possession of the property bearing no. SCO 393, Sector 20, Panchkula, Haryana.

6. On the other hand, learned counsel for respondent states that under the Settlement Agreement dated 30th November, 2015, petitioners had to pay an agreed amount of Rs.4,30,00,000/- on or before 31st March, 2016 and as the petitioners failed to deposit the said amount, respondent had filed execution petitions in pursuance to the arbitral award and issued notices under Section 13(2) of SARFAESI Act, 2002.

7. Having heard learned counsel for the parties, this Court is of the view that the primary issue that arises for consideration in the present proceedings is whether the respondent had breached the Settlement Agreement dated 30th November, 2015 which was made a part of the Court order dated 16th December, 2015 by filing execution proceedings on 16th May, 2016 and by issuing notices dated 27th August, 2016 under SARFAESI Act i.e. prior to 30th September, 2016. The relevant clauses of the Settlement Agreement are reproduced hereinbelow:-

“b. It has been further agreed between the parties that the said amount of Rs.8,25,00,000/- (Rupees Eight Crores And Twenty Five Lakhs Only) shall be paid by the First Party to the Second Party on or before 31st March, 2016.

c. It is further agreed by the First Party that an amount minimum of Rs.4,30,00,000/- (Rupees Four Crores and Thirty Lakhs Only) will certainly be paid him to the Second Party on or before 31st March, 2016.

d. It is further agreed that in case the entire amount of Rs.8,25,00,000/- (Rupees Eight Crores And Twenty Five Lakhs Only) is not paid by the First Party to the Second Party on or

before 31st March, 2016, the said amount shall be paid by the First Party to the Second Party on or before 30th September, 2016 along with interest @ 6% per annum on the balance amount to be paid to the Second Party.

e. It is agreed by the First Party that in all circumstances entire amount of Rs.8,25,00,000/- (Rupees Eight Crores And Twenty Five Lakhs Only) shall certainly be paid by the First Party to the Second Party on or before 30th September, 2016. However, the interest shall be payable by him on the balance amount left after the 31st March, 2016 with effect from 01.04.2016.

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m. It is further understood by both the parties that the First Party will make the payment of minimum amount of Rs.4,30,00,000/- (Rupees Four Crores and Thirty Lakhs Only) by 31st March, 2016 in these circumstances the balance amount will be payable by the First Party to the Second Party along with interest @ 6% per annum on the balance amount to be paid to the Second Party on or before 30th September, 2016 and not later than that.

n. It is further agreed that in case the First Party fails to honor the present Settlement Agreement i.e. payment of the entire amount of Rs.8,25,00,000/- (Rupees Eight Crores And Twenty Five Lakhs Only) to the Second Party, along with interest, if any, by 30th September, 2016 the Second Party shall be at liberty to sale the mortgage properties of the First Party as per the provisions prescribed under the Sarfaesi Act.”

8. Upon a harmonious reading of the aforesaid clauses, this Court is of the view that though the petitioners had to make an endeavour to pay Rs.8,25,00,000/- on or before 31st March, 2016, yet it had to pay the minimum amount of Rs.4,30,00,000/- on or before 31st March, 2016. The

balance amount (Rs.8,25,00,000 minus Rs.4,30,00,000 = Rs.3,95,00,000/-) could be paid on or before 30th September, 2016 along with interest @ 6% per annum.

9. Certainly, in the present cases no one can say that interpretation drawn by the respondent of the Settlement Agreement dated 30th November, 2015 is not plausible. In fact, the Supreme Court in *Sahdeo alias Sahdeo Singh vs. State of Uttar Pradesh & Ors., (2010) 3 SCC 705* after referring to the Constitution Bench judgment in *State of Bihar vs. Sonabati Kumar, AIR 1961 SC 221* has held that the provisions of Contempt of Courts Act, 1971 deal with the wilful defiance of the order passed by the court and order of punishment be not passed if the court is satisfied that the party was, in fact, under a misapprehension as to the scope of the order or there was an unintentional wrong for the reason that the order was ambiguous and reasonably capable of more than one interpretation or the party never intended to disobey the order but conducted himself in accordance with the interpretation of the order. In the opinion of this Court, the aforesaid ratio clearly applies to the facts of the present case.

10. Consequently, present contempt petitions and applications being bereft of merits, are dismissed, but with no orders as to cost.

Order dasti.

MANMOHAN, J

MARCH 15, 2017

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