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

+ EX.P. 313/2008 & EAs No.286/2014 (of objector for directions), 716 & 771/2015 (both of DHs for directions), 814/2016, 815/2016, 816/2016 & 817/2016 (of objector all for directions)

M/S SANJEEV SONIA INDUSTRIES & ORS Decree Holders
Through: Mr. Kunal Malik, Adv.

Versus

PHOOL SINGH & ORS Judgement Debtors
Through: Mr. Kartik Jindal and Mr. Joseph K. Antony, Advs. for JD-2/DDA.
Mr. A. Rasheed Qureshi, Adv. for objector Masjid Zeenat.

CORAM:

HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW

ORDER

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12.01.2017

1. This petition was filed seeking execution of a judgment dated 16th October, 2001 in Suit No.2470/1987, declaring the plaintiffs M/s Sanjeev Sonia Industries and others as perpetual lessees of plot No.A-138, Wazirpur Industrial Area, Delhi and passing a decree for possession of the said land in favour of the plaintiffs and against the defendants No.1/1 to 36.
2. The execution petition has been pending for the last eight years and several applications are pending consideration therein.
3. However, on hearing the counsels it transpires, (i) that objections to the execution petition were filed by one Masjid Zeenat not a defendant to the suit; (ii) the order dated 19th December, 2013 records that the objectors

had agreed to pay to the plaintiffs/decreed holders an amount of Rs.1,65,00,000/- for land admeasuring 285 sq. meters; the said order records the further terms agreed between the plaintiffs on the one hand and the said objector Masjid Zeenat on the other hand.

4. It is informed that out of the said amount of Rs.1,65,00,000/-, a sum of Rs.1,55,00,000/- has already been received by the plaintiffs/decreed holders from Masjid Zeenat and the balance amount remains to be paid.

5. The counsel for the objector Masjid Zeenat states that the balance amount is also ready for payment to the plaintiffs/decreed holders.

6. I have enquired the total size of plot No.A-138, Wazirpur Industrial Area.

7. The counsel for the plaintiffs/decreed holders states that the total size of the plot is 928.89 sq. yards.

8. The counsels seek directions for measurement of 285 sq. meters agreed by the plaintiffs/decreed holders to be sold to the objector Masjid Zeenat. It is stated that the other pending applications are also with respect to some controversies/differences which have arisen between the plaintiffs/decreed holders and the same Masjid Zeenat as to the said transaction.

9. I have enquired from the counsels as to how this petition for execution can be converted into a proceeding for specific performance of an agreement of sale which has come into being between the plaintiffs/decreed holders and the objector Masjid Zeenat.

10. Neither counsel has any answer.

11. The counsel for the plaintiffs/decreed holders however states that since on this basis the proceeding is going on for the several years, it should be taken to its logical conclusion.

12. Merely because a misconceived proceeding has been undertaken in this execution since 19th December, 2013 is no ground to continue with the mistake.

13. Dismissed.

RAJIV SAHAI ENDLAW, J.

JANUARY 12, 2017

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