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

+ CONT.CAS(C) 525/2012 and CM 19383/2013, 18452/2014,
18491/2014 and 26002/2015

YOGESH TRADING COMPANY

..... Petitioner

Through: Mr. Sanjeev Goyal, Advocate

versus

BHUPINDER SINGH SAWHNEY AND ORS Respondents

Through: Mr. Santosh Kumar Tripathi, ASC and
Mr. Rizwan, Advocate for GNCTD with HC
Surender 237, Police Station Sadar, Gurgaon
Mr. Anil Grover, AAG, Haryana with Mr. Mishal
Vij for State of Haryana

CORAM:

HON'BLE MR. JUSTICE R.K.GAUBA

ORDER

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06.09.2017

The matter has been received on transfer.

In company petition no.456/2010 taken out by the petitioner herein, the respondents gave certain undertakings by entering into a Memorandum of Understanding (MOU) dated 03.08.2011, on the basis of which order was passed on 05.08.2011, by the Company Court binding the parties to the terms set out in the said MOU, which primarily included obligation of the respondents to pay, by instalments, an amount then due in the sum of Rs.10,99,02,755/- unto the petitioner. On account of the breach of the said terms and

conditions, the petitioner was constrained to take out contempt petition, it being CCP (Co.) 4/2012 which resulted in certain further undertakings being held out, the matter arising therefrom eventually being concluded by order dated 23.01.2012.

Since the undertakings were still not abided by, the present petition was filed invoking the civil contempt jurisdiction of this Court in terms of Sections 12 and 14 of the Contempt of Courts Act, 1971 on which the court took cognizance and issued notices.

The proceedings recorded thus far would indicate that though some payments were made, the entire liability was not liquidated. The first and third respondents came to be arrested, *inter alia*, pursuant to duress processes being issued. The said first and third respondents having remained in custody for more than one year, this fact having been noticed, by order dated 30.11.2015 the proceedings against them were closed.

The second respondent, however, inspite of repeated processes being issued, has remained elusive. The non-bailable warrants have been issued from time to time but his present whereabouts not being known, the warrants remain unexecuted.

In these circumstances, when the petitioner also does not have any clue whatsoever as to the present whereabouts of the second respondent, instead of continuing with the proceedings or re-issuing the processes against him from date to time, it is deemed proper that an open ended non-bailable warrant be issued and made over to the appropriate police station for execution and return to the Court. The

petitioner is given liberty to approach the court with appropriate application, should it be in a position to ascertain the present whereabouts of the said second respondent for further directions, as may be required, to be issued in such context.

With directions to above effect, these proceedings stand disposed of.

R.K.GAUBA, J

SEPTEMBER 06, 2017

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CONT.CAS(C) 525/2012

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