

\$~20

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

+ EX.P. 250/2015

TAURANT PROJECTS LTD

..... Decree Holder

Through: Mr Raman Gandhi, Adv.

versus

NATIONAL BUILDINGS CONSTRUCTION CORPORATION
LTD & ORS

..... Judgement Debtors

Through: Mr Manoj Kumar Das, Adv for NBCC
Mr Shekhar Raj Sharma, Adv for JD-2

CORAM:

HON'BLE MS. JUSTICE DEEPA SHARMA

ORDER

%

15.03.2017

The present execution has been filed by the Decree Holder for execution of the judgment dated 21.03.2011 passed on the basis of the settlement agreement entered into between the parties on 15.02.2011. It is submitted that as per the settlement agreement, the Judgment Debtors were to obtain appropriate pollution board clearance which they have failed to do and hence necessary directions be issued to them.

It is contended by Judgment Debtor No.1 that under the said settlement agreement dated 15.02.2011 Judgment Debtor No.1 did not have any obligation for performance of any act and, there is no clause in the said settlement which required to be executed against Judgment Debtor No.1. It is submitted on behalf of Judgment Debtor No.2 that they have duly complied with the terms and conditions of the

settlement agreement dated 15.02.2011 and obtained the pollution certificate dated 06.04.2015 from the Haryana State Pollution Control Board. It is submitted that Haryana State Pollution Board had initially issued the pollution control certificate for the period 06.04.2015 to 05.07.2015 for trial production and Decree Holder had never started the production and submitted the requisite information pursuant to various conditions imposed upon him under this certificate and, therefore, this pollution control certificate was not extended by the Authorities. It is further submitted by Judgment Debtor No.2 that since it is the Decree Holder who has failed to comply with the conditions and directions contained in the pollution control certificate and because of that Authorities did not extend the period of certificate, the liabilities cannot be imposed upon him and, no cause of action for execution of the decree passed on the basis of settlement agreement arises against Judgment Debtor No.2 as well.

It is, however, argued by the learned counsel for the Decree Holder that the said pollution certificate had been obtained by Judgment Debtor No.2 in connivance with the Board and thus the obligation is still on the Judgment Debtor No.2 to obtain the pollution control certificate.

I have given thoughtful consideration to the rival contentions of the parties and gone through the record.

The Decree Holder had initially filed a suit and during the trial of the suit, the matter was referred to the Mediation Centre of Delhi High Court wherein the parties entered into the settlement dated 15.02.2011. One of the conditions records that defendant No.2 now

Judgment Debtor No.2 had already initiated the process for obtaining the pollution certificate from Haryana Pollution Control Board. It is thus apparent that Judgment Debtor No.2 had initiated the said process for obtaining the pollution certificate and this certificate was subsequently granted by the Authorities, subject to certain conditions to be fulfilled by the holder of the said pollution certificate, i.e, the Decree Holder. This fact shows that the Judgment Debtor No.2 had duly complied with the terms of this agreement. As regards the liability of Judgment Debtor No.1 is concerned, there is no clause in this agreement which binds Judgment Debtor No.1 with any obligation. The Decree Holder has come before this Court with the prayer to direct Judgment Debtors to get the appropriate pollution board clearance in terms of settlement agreement dated 15.02.2011 and as it is clear from the above discussion that Judgment Debtors have so obtained the pollution Board clearance which the Board had chosen to grant only for 90 days subject to certain conditions imposed upon the Decree Holder, it is apparent that Judgment Debtors have duly complied with the terms and conditions of this settlement agreement. There is no cause of action in favour of Decree Holder to come to the court for execution of the decree.

The petition is dismissed.

DEEPA SHARMA, J

MARCH 15, 2017

bg