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

Decided on: 22nd September, 2017

+ TR.P.(C.) 106/2017

ADONIS LIMITED

..... Petitioner

Through: Ms. Ekta Sikri and Mr. Junaid
Nahvi, Advocates

versus

NAROTAM SAYAL & ANR.

..... Respondents

Through: Mr. A.S. Mathur and Ms. Sweta
Singh, Advocates for D-1
Ms. Priya Kumar, Ms. Tanya
Tiwari and Mr. Anand Chichra,
Advocate for R-2

CORAM:

HON'BLE MR. JUSTICE R.K.GAUBA

JUDGMENT (ORAL)

1. The petition at hand invokes the jurisdiction of this court under Section 24(1)(b) of the Code of Civil Procedure, 1908 (CPC) to seek withdrawal of two execution petitions pending in the district courts and their transfer to this court for further proceedings in their respect alongwith a third execution petition pending on the original side here. On notice, the respondents who are described as judgment debtors in the execution cases have appeared to resist the prayer.

2. The decrees which are sought to be executed in all the three petitions are stated to have been passed by the High Court of Hong Kong.

3. The three execution petitions include one registered as Execution Petition No.61/2012, titled Adonis Ltd. Vs. Narotam Sayal, which is pending further proceedings before a learned single Judge of this court on the original side. The execution petitioner Adonis Ltd., also the petitioner in the proceedings at hand, explains that it was formerly known as M/S Mayar Hong Kong Ltd. The other two execution petitions were also initially presented on the original side of this court, they having been referred to Execution petition no.147/2009, titled Mayar Hong Kong Ltd. Vs. Ashita Impex Pvt. Ltd. and Execution Petition no.148/2009, titled Mayar Hong Kong Ltd. Vs. Narotam Sayal. The said other two execution petitions were transferred from the original side of this court to the District Courts, first one to the court of Additional District Judge of South District at Saket and the other one to the District Court of New Delhi District at Patiala House Courts on account of change in the pecuniary jurisdiction.

4. Since Mayar Hong Kong Ltd., the decree holder in whose name the said matters were presented, is now known as Adonis Ltd., the petitioners in the three cases are common. The first respondent, Narotam Sayal, is the judgment debtor in the execution case pending on the original side of this court as also in the second above said execution petition now pending on the file of Additional District Judge at New Delhi Courts.

5. It is the submission of the petitioner that Ashita Impex Pvt. Ltd., the judgment debtor in the third case pending on the file of Additional District Judge at South District is *alter ego* of Mr. Narotam

Sayal, reliance in this regard being placed on conclusions to this effect reached in the judgment in Commercial Action no.4/2007, which is sought to be executed.

6. The learned counsel for the petitioner has shown, with reference to copies of various orders passed in the context of the three execution petitions during the period all of them were pending before a learned single judge on the original side of this court that they were taken up together by the same bench, it being a common submission of both sides that all the three execution petitions give rise to a (preliminary) common question of law concerning the executability of the foreign decrees in India in terms of Section 44A CPC. The petitioners claim that there are reciprocal arrangements between India and Hong Kong and, therefore, the jurisdiction of the courts in India has been properly invoked in these matters, a contention which is disputed by the other side.

7. It was also brought out during the submissions that the execution petitioners had obtained certain orders for attachment of certain properties of the two respondents herein in the course of proceedings arising out of the execution petition no.61/2012 though it was also conceded that some objections have been filed by parties other than judgment debtors against such attachment orders. It is the case of the petitioners that the said very properties would require to be proceeded against even in the context of the other two execution petitions.

8. In the above fact-situation, it is deemed just and proper that all the three execution cases are heard and the issues arising therein adjudicated upon by the same court.

9. In above view of the matter, the prayer for transfer of the two execution petitions back from the District Courts to this court deserves to be granted. Whether or not the three cases are to be clubbed for adjudication of the issues that may be common, however, rather be left to be considered by the appropriate bench. The grant of the prayer for transfer is only to facilitate consideration of the common issues by the same court, it not to be construed as an expression of opinion on merits of the questions of law, or of fact, that arise.

10. The petition is thus allowed. The execution petition described as one registered vide no.147/2009, presently pending in the court of Additional District Judge (South) at Saket, titled Mayar Hong Kong Ltd. Vs. Ashita Impex Pvt. Ltd. and the execution petition no.148/2009, titled Mayar Hong Kong Ltd. Vs. Narotam Sayal, presently pending on the file of the Additional District Judge, New Delhi at Patiala House Courts Complex are withdrawn from the said respective courts and transferred to the original side of this court to be taken up alongside the execution petition no.61/2012, titled Adonis Ltd. Vs. Narotam Sayal.

11. The transferor courts are directed to send the files of the respective cases to this court in terms of this order fixing an appropriate date for the parties to appear before the transferee court.

12. The petition is disposed of in above terms.

13. A copy of this order shall be sent to the respective transferor courts for needful compliance.

R.K.GAUBA, J.

SEPTEMBER 22, 2017

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