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

\+ **W.P.(C) 1646/2018 & CM 6730/2018**

M/S INDO CRYSTAL PVT. LTD. ..... Petitioner

Through Mr Girdhar Arora, Advocate.

versus

DIRECTORATE OF ENFORCEMENT ..... Respondent

Through Mr Amit Mahajan, CGSC/UOI with Ms Mallika Hiremath, Advocates.

CORAM:
HON'BLE MR. JUSTICE VIBHU BAKHRU

O R D E R

% 03.08.2018

1. The present matter has been taken up on the joint mentioning of the learned counsel for the parties.

2. The petitioner has filed an application for early hearing (bearing No. CM 3003/2018) which was disposed of on 30.07.2018 as the early hearing was not feasible. However, after the order was passed, the learned counsel for the parties had mentioned the petition and requested that the matter be taken up for hearing. This court had aceeded to the aforesaid request and directed that the matter be listed today. However, the said direction was not recorded in the order passed on 30.07.2018.

3. The learned counsel for the parties now request the matter be taken up for hearing.

4. In view of the above and with the consent of the learned counsel for the parties, the petition is taken up for hearing.

5. The petitioner has filed the present petition, *inter alia*, impugning the Provisional Attachment order dated 30.09.2016 passed in terms of Section

5(1) of the Prevention of Money Laundering Act, 2002 (hereafter 'PMLA') whereby the Deputy Director (Director of Enforcement) has attached several properties including property described as Aashirwad Metropolitan Mall at Jaipur (now known as Jalsa Mall). The said attachment order was confirmed by an order dated 14.03.2017 passed by the Adjudicating Authority in terms of Section 8 of the PMLA. The said order is also impugned in this petition. In addition, the petitioner also impugns an order dated 24.03.2017 for eviction from the property in question (Jalsa Mall) passed under Section 8 (4) of the PMLA.

6. The petitioner claims that it is a lessee of a plot of the land described as plot No. 124A, 125, 126 & 127, Malviya Industrial Area, Malviya Nagar, Jaipur, measuring approximately 8152 square meters 90 (hereafter 'the said land'). It is stated that the said land was leased to the petitioner by a lease deed dated 23.10.2008 executed by Rajasthan State Industrial Development & Investment Corporation Ltd. (RIICO). It is claimed that the petitioner entered into a Memorandum of Understanding dated 19.05.2006 with M/s Divya Aashirwad Properties (P) Limited (hereafter 'DAPL') whereby the said company agreed to develop a market (mall) on the said land. In terms of the said agreement, the net sale proceeds were to be shared between petitioner and DAPL in the ratio of 45:55. 55% share of the built up property would belong to the petitioner company and the balance 45% would belong to DAPL.

7. It is stated that the DAPL could not complete the said project and the petitioner entered into a joint venture agreement with M/s Innovative Build Estate Pvt. Ltd. by forming a Special Purpose Vehicle (SPV) in the name of Jalsa Infrastructure Pvt. Ltd. Both the joint venture partners were entitled to

50% shares of the SPV.

8. It is stated that the mall (Jalsa Mall) was subsequently developed and the built up area was divided amongst the joint venture partners.

9. The petitioner has filed the floor plans of the mall indicating the physical demarcation of the property in question.

10. The petitioner has also filed an affidavit of Sh Sudhir Kumar Kukar S/o Late Sh. N.L. Kukar which provides the details of the shops that are vacant and in the possession of DAPL. It is affirmed that total of ninteen shops, amongst those that fall in the share of DAPL are vacant and are in its possession. The details of the said shops have also been listed in the said affidavit.

11. It is not disputed that the impugned orders dated 30.09.2016 and 14.03.2017 were directed against the properties of DAPL.

12. Mr Mahajan, the learned counsel appearing for the respondent also confirms that the Enforcement Director has verified the above mentioned facts, as stated in the affidavit, and nineteen shops belonging to DAPL are vacant and available. There is also no dispute that the applicability of the impugned orders has to be restricted to the properties owned and in possession of DAPL.

13. In view of the above, the orders dated 30.09.2016 and 14.03.2017 are modified to the extent of directing that the said orders will not be applicable in respect of the immovable property forming a part of Jalsa Mall except the nineteen shops as identified in the additional affidavit affirmed on 09.07.2018. Consequently, the eviction order dated 24.03.2017 shall also not be operative in respect of any property forming a part of the Jalsa Mall other than the nineteen shops as indicated above. It is also to be noted that

the said attachment insofar as Jalsa Mall is concerned, is limited to a sum of ₹2,78,87,000/- as expressly indicated in the impugned order dated 30.09.2016.

14. This order is passed with the consent of the parties.

15. The petition is disposed of with the aforesaid directions. The pending application is also disposed of.

16. The next date of hearing scheduled on 23.10.2018 is cancelled.

VIBHU BAKHRU, J

AUGUST 03, 2018
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