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

***Decided on: 1st March, 2018***

\+ C.R.P. 212/2017 and CM APPL.35141/2017 (stay)

UNION BANK OF INDIA ..... Petitioner
Through: Mr. Anil Kumar Singh, Advocate

versus

RAJESH SAXENA & ORS ..... Respondents
Through: Mr. Aditya Jain, Advocate for R-1.
Ms. Ruchi, Adv. for R-2.

**CORAM:**
**HON'BLE MR. JUSTICE R.K.GAUBA**

**ORDER (ORAL)**

1. The first respondent had instituted a civil suit against the second respondent for recovery of money, it having been decreed by judgment dated 01.09.2015. To enforce the said decree, the first respondent (the decree-holder) took out the execution proceedings (Ex.No.122/2015, new No.9591/2016), which are pending before the Court of Additional District Judge-03, South-East District against the second respondent (judgment-debtor). It appears, in the course of the said execution proceedings it came to light that the judgment debtor holds an account with Union Bank of India (the petitioner herein). The executing Court by its order dated 10.03.2017 ordered attachment of the credit balance in the said account directing the bank to remit the money to it so that the decree could be satisfied. It further appears

that by communication dated 20.12.2016, in answer to the directions of the executing Court, the Chief Manager of the petitioner bank informed that it had marked lien against account No.413701010036595 of the judgment debtor with the amount of Rs.9,98,712.59, the balance in the account as on 20.12.2016 being Rs.10,70,606.97.

2. The petitioner bank later approached the executing Court with the prayer for recall of the order of attachment of the account of the judgment debtor on the ground that there was an outstanding amount of Rs.16,38,14,79,694.03 against the judgment debtor which the bank was entitled to recover. The prayer for recall of the order of attachment was declined by the executing court with the observation that it should pursue the remedies available to it under the law.

3. When the matter was heard on 26.09.2017, it was argued by the bank that it has right of general lien over the money lying in the account of the judgment debtor. It was noted that the bank had made no averments about it having exercised the right of general lien or having credited the money lying in the account of the judgment-debtor to its own account in settlement of the amounts claimed to be due to the bank. Since the counsel for the petitioner bank was clueless as to the steps taken, suitable directions were given. Eventually, the Deputy General Manager appeared in the court on 08.11.2017 when the matter was further heard. Reliance was placed by the bank on ruling in *Syndicate Bank vs. Vijay Kumar & Ors., AIR 1992 SC 1066* to contend that all that it was required to do was to file objections to the order of

attachment setting out its claim for lien and if the executing court were to find lien the attached money would not be credited towards the satisfaction of the debts of the account holder.

4. The learned counsel for the bank submitted, at the hearing today, that the bank may be given liberty to file fresh objection petition setting out all the steps taken by it for recovery of the dues owed by the judgment debtor to it and also with regard to its superior claim over the money lying in the said bank account. In the given facts and circumstances, while the petitioner bank deserves to be granted such liberty, the interest of the decree-holder also deserves to be duly protected.

5. Therefore, it is directed that the petitioner bank shall deposit with the executing court the decretal amount with up-to-date interest, to the extent the same can be satisfied by the credit balance presently lying in the afore-mentioned bank account of the judgment debtor, in the form of fixed deposit interest bearing receipt, initially for a period of six months with provision for auto-renewal. The amount thus deposited with the executing court shall be retained for appropriate disbursal in light of the decision taken on the objection petition of the petitioner bank, which may be submitted within four weeks hereof. The deposit of money in the form of fixed deposit receipt shall also have to be made within the same period.

6. The executing court shall take a decision on the objection petition after hearing both the parties in accordance with law. In case of any default by the petitioner bank in submitting the objection for

which the liberty has been granted, it shall be liable to be forthwith remit the requisite amount to the executing court for satisfaction of the decree.

7. The petition and the application filed therewith stand disposed of with these observations.

**R.K.GAUBA, J.**

**MARCH 01, 2018**
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