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

\+ **CM (M) 1396/2019**

SUMEET SALUJA ..... Petitioner

Through: Mr. R. S. Raju, Mr. Anoop Prakas Awasthi and Mr. Prateek Kohli, Advocates. (M: 7678408858)

versus

AK HAB EUROPE BV & ANR ..... Respondents

Through: Mr. Ankur Mittal, Mr. Abhay Gupta and Ms. Aishwarya Pandey, Advocates. (M: 9971349117)
Ms. Reema Khorana, Advocate. (M: 9811135752) with Mr. Ashok Punia and Mr. Natwar Jha, Sr. Manager.

CORAM:
JUSTICE PRATHIBA M. SINGH

<u>O R D E R</u>

% **07.02.2020**

<u>CM APPL. 2515/2020 (Exem)</u>

1. Allowed, subject to all just exceptions. Application is disposed of.

<u>CM APPL. 2512/2020 & CM APPL. 2514/2020</u>

2. Vide order dated 20th September, 2019 stay of arrest was granted in this petition upon an undertaking given on behalf of the Judgment Debtor/Petitioner i.e., Mr. Sumeet Saluja *(hereinafter, "Judgment Debtor")* that he would make the entire payment due under the decree dated 25th April, 2011.

3. The total amount due to the Decree Holder was a sum of Rs.53,90,771/- as on 16th September, 2019. Upon the said undertaking being given, this Court had permitted payment of the sum due in the following instalments:

"3. Ld. counsel for the Decree Holder has handed over a computation, as per which the total amount payable as on 16th September, 2019 is a sum of Rs.53,90,071/-. Considering the statement made on behalf of the Judgment Debtor today, it is directed as under:-

(1) An affidavit of undertaking shall be filed by the Judgment Debtor stating that he shall pay the entire sum of Rs. 53,90,071/- on or before 31st December, 2019.

(2) The first instalment of Rs.20,00,000/- shall be remitted to Decree Holder in foreign exchange to bank account, details of which are as under:-

"Account Holder	*:*	*AKHAB Europe*
Bank Name	*:*	*ABN Amro Bank*
IBAN	*:*	*NL48 ABNA 0256 2671 97*
BIC	*:*	*ABNANL2A*
Euro Account	*:*	*02 56 26 71 97"*

(3) The remaining amounts shall be paid in the following manner:

- *Rs.10,00,000/- by 15th October, 2019*
- *Rs. 10,00,000/- by 15th November 2019*
- *Rs. 10,00,000/- by 15th December, 2019 and*
- *Rs. 3,90,071/- by 31st December, 2019.*

All the above payments shall be directly remitted to the bank account of the Decree holder, particulars of which are given above.

4. The Decree Holder is permitted to move this Court if any of the instalments are not paid. Subject to the compliance of the above payments being made, there shall be stay of arrest. List this matter for reporting compliance on 21st November, 2019."

4. Thereafter, the Judgment Debtor started avoiding making of payments. This Court had shown indulgence to the Judgment Debtor on 1st October, 2019, however, even thereafter, the instalments of October and

November were not paid though the initial instalment of Rs.20 lakhs was paid. On 21st November, 2019, the following order was passed:

> *"It is submitted that the instalments for October and November have not been paid, however, the first instalment of Rs. 20,00,000/- has been paid. Ld. counsel for the Petitioner submits that the deadline of 31st December, 2019 shall however not be breached.*
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> *Accepting this statement, the matter is listed for reporting compliance on 15th January, 2020."*

5. Again, on 15th January, 2020, a submission was made by the ld. counsel for the Judgment Debtor that there is an amount of USD 57,500/- lying in the Central Bank of India, Parliament Street Branch *(hereinafter, "Bank")*, which is not being released on the said date. The Court then directed that if the amount is not credited by the Bank to the Petitioner's account, within a period of ten days, a Senior Official of the Bank be present in Court on the next date.

6. The matter was again listed on 5th February, 2020, on which date ld. counsel for the Bank submitted that the statement made on behalf of the Judgment Debtor on 15th January, 2020 was incorrect and, in fact, there is no approval by the RBI for crediting USD 57,500/- into the Judgment Debtor's account. Accordingly, this Court had directed the Judgment Debtor to remain present in Court today.

7. The Judgement debtor is present. It is submitted that he is tendering a total sum of Rs. 10,90,071/- as full payment of the remaining amount due i.e., Rs.29,90,071/-. Details of the pay orders tendered are as under:

"**1**. ***Pay Order No: 000100 dated 21.01.2020***
Issued by: Sumeet Saluja
Drawn on: Woori Bank
Amount: Rs.16,00,000/-

2. Pay Order No: 000104 dated 31.01.2020
Issued by: Royal Agri Supply
Drawn on: Woori Bank
Amount: Rs.1,00,000/-

3. Pay Order No: 000105 dated 03.02.2020
Issued by: Royal Agri Supply
Drawn on: Woori Bank
Amount: Rs.1,00,000/-

4. Pay Order No: 000106 dated 04.02.2020
Issued by: Royal Agri Supply
Drawn on: Woori Bank
Amount: Rs.1,00,000/-

5. Pay Order No: 000107 dated 06.02.2020
Issued by: Sumeet Saluja
Drawn on: Woori Bank
Amount: Rs.10,90,071/-

8. The original pay orders have been handed over to the Court, the same may be encashed in the Registrar General's account and be transferred to the Decree Holder's account within 10 days. Banking details of the Decree Holder are set out in the order dated 20th September, 2019.

9. Apart from these amounts, the Judgment Debtor is stated to have deposited a sum of Rs.4,00,000/- with the Registrar General vide pay order dated 7th January, 2020. Thus, according to the Judgment Debtor, the entire sum due has now been tendered by him.

10. The Judgment Debtor who is present today expresses remorse for the delay in making payments in terms of the order passed by this Court, however, from the events that have transpired after the order dated 20th

September, 2019, it is clear that the Judgment Debtor is deliberately delaying the making of payments. The apology is accepted, however, subject to terms. Since interest was granted to the Decree Holder only till 16th September, 2019, the Judgment Debtor would be liable to pay further costs in the matter. It is directed that the Judgment Debtor shall pay a sum of Rs.2 lakhs directly to Respondent No.1/Decree Holder as costs and Rs.1 lakh to the Bank as costs. The said payments shall be made within two weeks, failing which the Court would be constrained to take further action against the Judgment Debtor. In case of non-payment of costs, the Decree Holder is at liberty to file an application.

11. Registry to also check up the status of FDR No.562081 dated 22nd April, 2015 which is lying deposited with this Court in compliance of order dated 13th March, 2015 and 27th April, 2015. After deducting TDS on the interest amount, the same shall be transmitted to the Decree Holder/Respondent No.1 as per the banking details contained in order dated 20th September, 2019.

12. With these observations, the petition and all pending applications are disposed of.

PRATHIBA M. SINGH, J.

FEBRUARY 07, 2020
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(Corrected and released on 14th February, 2020)