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

+ **W.P.(C) 7146/2019**

S. L. CHOPRA

..... Petitioner

Through: Mr. Manoj K. Singh and Mr. Vishal
Gera, Advocates.

versus

**THE INDUSTRIAL FINANCIAL CORPORATION OF INDIA
LTD. AND ORS.**

..... Respondents

Through: Mr. R.P. Agrawal and Mr. Nitish
Kumar, Advocates

CORAM:

HON'BLE MS. JUSTICE HIMA KOHLI

HON'BLE MR. JUSTICE SUBRAMONIUM PRASAD

ORDER

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13.03.2020

C.M No. 9789/2020 (by the petitioner under Section 151 CPC)

1. This application has been filed by the applicant/petitioner in a decided writ petition stating inter alia that the respondent/IFCI is failing to comply with the order dated 05.7.2019 and at the same time, it is pressing the Execution petition filed by it against the petitioner.

2. It is submitted by Mr. Manoj Singh, learned counsel for the petitioner that while disposing of the writ petition on 05.7.2019, this Court had directed that any decision in the original application filed by the petitioner would be subject to the orders that the DRAT may pass in Misc. Appeal No.340/2018 filed by the petitioner, seeking permission to cross examine the

Bank witness. Instead of appearing before the DRAT, several dates have been sought on behalf of the respondent/IFCI and at the same time, they are taking steps to press the execution petition pending before the DRT. The next date fixed before the DRT in this regard is 31.3.2020.

3. Learned counsel submits that three dates fixed before the DRAT have been frustrated by the respondent/IFCI due to non appearance i.e., 02.1.2020, 20.1.2020 and 11.3.2020. The next date fixed before the DRAT is 21.4.2020.

4. Issue notice.

5. Mr. Aggarwal, learned counsel for the respondent accepts notice and disputes the submission made by the other side. He states that there were genuine reasons for him not to argue the appeal before the DRAT including the fact that he had recently undergone a cataract surgery and is still recovering.

6. On enquiring from learned counsel for the respondent/IFCI as to whether the cataract surgery he has undergone, impeded his presence before the DRAT-II, he states that a colleague of his has been appearing for him before the DRAT.

7. If learned counsel for the respondent/IFCI is so indisposed as not to appear before the DRAT, then he should have made sure that the Execution petition is not pressed till appropriate orders are passed by the DRAT. The attempt to defer arguments before the DRAT and continue pressing the Execution petition before the DRT, runs contrary to the spirit of the order dated 05.7.2019, passed in the present petition.

8. It is accordingly directed that learned counsel for the respondent/IFCI

shall ensure his presence before the DRAT on 21.4.2020, so that Misc. Application 340/2018 filed by the petitioner can be taken up and decided. Till then, the respondent/IFCI is restrained from pressing the Execution petition filed by it and pending before the DRT.

9. The application is disposed of.

HIMA KOHLI, J

SUBRAMONIUM PRASAD, J

MARCH 13, 2020

Ap/NA