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

+ **EX.P. 329/2014**

VISHNU MOHAN SAXEA

..... Decree Holder

Through: Ms. Gayatri Nandwani, Ms. Mudita Sharda, Advocates (M-9818281779) along with the Petitioner.

versus

NIHO CONSTRUCTION LTD & ORS

..... Judgement Debtors

Through: Mr. M.A. Niyazi, Mr. Manish Kumar & Ms. Kriti Jaswal, Advocates (M-9810413706)

CORAM:

JUSTICE PRATHIBA M. SINGH

ORDER

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15.02.2019

1. The Petitioner is present in Court today. The present execution petition seeks execution of order and decree dated 4th April, 2013. Vide the said order, decree was passed in the terms of the Settlement Agreement dated 7th March, 2013. The said Settlement Agreement obligated the Judgment Debtors to make the following payments:

“6. Now in view of the above, the parties hereinabove agree as follows:-

a) That the parties agreed that a total amount of Rs. 52,41,618/- shall be paid by the second party and on behalf of the second party to the first party as full and final settlement of all the claims of the first party.

b) That the second party has paid the first installment

of an amount of Rs. 1,00,000/- by way of demand draft bearing no. 648896 dated 07.03.2013 drawn on Bank of Maharashtra, New Delhi in the name of Mr. Vishnu Mohan Saxena payable at New Delhi at the time of signing of the present settlement agreement.

c) That the second party shall pay the second installment of an amount of Rs. 3,89,813/- by way of RTGS transfer directly in the account of Vishnu Mohan Saxena account no. 09251000001946, HDFC Bank, Mayur Vihar, Phase-1, New Delhi having IFSC Code - HDFC0000925 by or before 31.08.2013.

d) That the second party shall pay the third installment of an amount of Rs. 13,82,008/- by way of RTGS transfer directly in the account of Vishnu Mohan Saxena account no. 09251000001946, HDFC Bank, Mayur Vihar, Phase-1, New Delhi having IFSC Code - HDFC0000925 by or before 28.02.2014.

e) That the second party shall pay the fourth and final installment of an amount of Rs. 33,69,797/- by way of RTGS transfer directly in the account of Vishnu Mohan Saxena account no. 09251000001946, HDFC Bank, Mayur Vihar, Phase-1, New Delhi having IFSC Code - HDFC0000925 by or before 31.08.2014.

f) That the second party undertakes to transfer the above mentioned amount in para (c) to (e) by or before the dates mentioned therein. In case of any difficulty in RTGS transfer, the second party shall pay the respective amounts by way of demand drafts and shall notify the first party of the same immediately.

g) That in case of any change in bank account of the first party, the same shall be communicated to the second party at the registered address of the Defendant No.1 at X-22, First Floor, Hauz Khas, New Delhi - 16

well in advance before the due date by way of registered AD Post.

h) That a detailed chart of the full and final settlement amount of Rs. 52,41,618/- is annexed and signed herewith with the settlement agreement as ANNEXURE-A.

i) That in case of any default by the second party in payment of any or all installments mentioned above, the first party shall take legal action as per course available in law.

j) That on above assurances and undertaking of the second party in view of the present settlement, both the parties take appropriate steps for disposal of the present suit.

k) That in the light of the aforesaid terms, the suit filed by the first party shall be disposed off and the first party will be at liberty to move an appropriate application, under section 16 of the Court Fees Act, 1870; read with Section 89 of CPC, 1908; for refund of the Court Fee deposited by them.”

2. The principal amount stands paid admittedly. The issue is about the interest which was outstanding. On 19th May, 2015, this Court had directed the Judgment Debtors to pay the balance sum of Rs. 32,51,806/- along with the interest @ 12%. The interest amount of Rs.6.28 lakhs is stated to be outstanding. The Judgment Debtors have agreed to pay a sum of Rs.4 lakhs as a full and final settlement in two instalments of Rs.2 lakhs each. The first instalment will be paid by 31st March, 2019 and the second instalment by 30th April, 2019. It is undertaken on behalf of the Judgment Debtors through Mr. Deepak Kapil – Director that if the total payment of Rs. 4 lakhs is not

made in two instalments, as directed, a sum of Rs.8 lakhs would be liable to be paid by him to the Decree Holder on or before 30th June, 2019. Subject to the payment being made on or before 30th April, 2019, the attachment orders passed in the present case shall stand vacated after 30th April, 2019. The affidavit of undertaking of Mr. Deepak Kapil to the above effect shall be filed within two weeks.

3. If the payment is not made, the Decree Holder is permitted to approach this Court.

4. With the above directions, the execution petition is disposed of.

PRATHIBA M. SINGH, J.

FEBRUARY 15, 2019

Rahul