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

Date of Decision: 31st July, 2018

\+ **EX.P. 336/2014, EX.APPL.(OS) 696/2014, EX.APPL.(OS) 964/2014, EX.APPL.(OS) 407/2016, EX.APPL.(OS) 228/2018 & 299/2018**

SURINDER KUMAR AGGARWAL ..... Decree Holder

Through: Mr. S. K. Singh and Mr. Rameezuddin Reja, Advocates. (M:9899347995)

versus

MOTI GUPTA JAGDISH KUMAR GUPTA & ANR. ..... Judgement Debtors

Through: Mr. Alok Sinha, Advocate for JD No.1 & 2.

CORAM:
JUSTICE PRATHIBA M. SINGH

Prathiba M. Singh, J. (Oral)

1. Amended memo of parties is taken on record. This is an execution petition seeking to execute the judgment and decree dated 15th December, 2013 passed by the Commercial Plenary Court in Dubai. The case of the decree holder who was the Plaintiff in the said Court is that the Plaintiff lent a sum of AED 1,500,000/- (AED one million and five hundred thousand) to the Defendant No.2. In acknowledgment of the said loan, Defendant No.2 had executed an acknowledgment and she had also handed over a cheque No.001001dated 26th May, 2013, for a sum of 1.5 million AED by Habib Bank AG Zurich signed by her husband-Defendant No.1. The counsel for the Defendant does not dispute the signatures of his client on the said acknowledgment or on the cheque. Admittedly, the cheque was dishonored which led to the filing of the suit by the Petitioner /Decree Holder.

2. In the present execution petition, vide order dated 16th March, 2018, this Court had directed the Judgment Debtors to file an affidavit of assets within two weeks. The said affidavits have been placed on record both by Mr. Moti Gupta @ Mr. Jagdish Gupta and Mrs. Neeta Gupta. The residential property H.No.42-B & 43, Ashoka Park, Main Rohtak Road, Delhi is where the family is living. The Judgment Debtors have stated that the said house is in the name of their son Mr. Mridul Gupta. Upon enquiry, counsel for the Judgment Debtors submits that the said house was in the name Mrs. Neeta Gupta and was transferred by registered gift deed dated 27th May, 2015 in favour of her son Mr. Mridul Gupta. Clearly, the said gift deed has been executed after the passing of the decree which is sought to be executed in the present petition.

3. On the last date, an interim injunction was granted restraining the Judgment Debtors from alienating, transferring or creating any third-party interest on House No.42B & 43, Ashoka Park, Main Rohtak Road, Delhi. The Judgment Debtors were also directed to seek instructions as to how they can secure the interest of the Petitioner/Decree Holder. Today, the parties have appeared before this Court. Learned counsel for Judgment Debtors submits that his client is ready and willing to pay a sum of Rs.3 crores as full and final settlement of the decree. Learned counsel for the Decree Holder submits that his client is willing to accept the said amount provided the same is paid expeditiously. Learned counsel for Judgment Debtors submits that his client is willing to dispose of a part of the property at Ashoka Park, Main Rohtak Road, Delhi in order to pay the Decree Holder.

4. Accordingly, the present execution petition is disposed of, recording the settlement of the parties in the following terms.

i) The Judgment Debtors shall pay a lumpsum amount of Rs.3 crores in full and final settlement of the decree dated 15th December, 2013 passed by the Commercial Plenary Court.

ii) The said payment of Rs.3 crores shall be cleared on or before 31st December, 2018.

iii) In order to agree for the modalities of the payment, the matter is placed before the Delhi High Court Mediation and Conciliation Centre.

5. Execution petition is disposed of as settled, however, since the Petitioner/Decree Holder has since expired and is survived by his wife and daughter, who are in need of money, the matter is listed for compliance to report on the mediation proceedings. All the pending I.As. also stand disposed of with the execution petition. In case the amount as agreed is not paid within the stipulated time, the Decree holder is entitled to seek attachment and auction of House No.42B & 43, Ashoka Park, Main Rohtak Road, Delhi. Until the entire payment is made the interim injunction passed on the last date shall continue to operate.

6. List before the Delhi High Court Mediation and Conciliation Centre on 16th August, 2018. Ms. Veena Ralli is appointed as mediator to enable the parties to agree on the terms and modalities of payment.

7. Petition is disposed of. List before Court for reporting compliance on 25th September, 2018.

PRATHIBA M. SINGH
JUDGE

JULY 31, 2018/*dk*