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IN THE HIGH COURT OF DELHI AT NEW DELHI

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EFA(OS) 20/2018

NIRMALA MODI

..... Appellant

Through: Mr Sandeep Sharma, Mr Ravinder Singh, Ms Raveesh Gupta and Ms Kanchan Semwal, Advocates.

versus

BDR BUILDTECH & DEVELOPERS PVT LTD & ANR Respondents

Through: None.

CORAM:

JUSTICE S.MURALIDHAR

JUSTICE SANJEEV NARULA

ORDER

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07.01.2019

CM 52371/2018 (exemption)

1. Allowed, subject to all just exceptions.

CM 52372/2018 (delay)

2. For the reasons explained in the application, the delay in filing the appeal is condoned and the application is allowed.

EFA(OS) 20/2018 & CM 52370/2018 (stay)

3. This is an appeal against an order dated 9th October, 2018 passed by the learned Single Judge rejecting the objections raised by the Appellant herein, the Judgment Debtor ('JD'), to the draft sale deed which was presented by

the Decree Holders ('DHs') to the Executing Court.

4. The occasion for raising objections was that in proceedings for the execution of the decree in terms of an arbitral Award, the JD was required to execute a sale deed. It must be noticed at this stage that the JD (present Appellant) missed the bus as far as the challenge to the arbitral Award itself was concerned.

5. In the impugned judgment, each of the objections raised by the present Appellant / JD has been discussed elaborately by the learned Single Judge and cogent reasons have been given for rejecting each of them.

6. Before us, learned counsel for the Appellant highlighted two such objections – one concerned the liability that might arise in the form of capital gains tax in terms of Section 50-C of the Income Tax Act, 1961, since, according to the Appellant, the consideration as shown in the draft sale deed could be viewed as lower than the circle rates for the purposes of the stamp duty. The learned Single Judge has rightly observed that with the Award having become final, the tax implication arising out of the Award or the sale transaction would have to be borne by the parties involved. No further clarification is called for as far as this aspect is concerned.

7. Learned counsel for the Appellant then referred to the portion of the impugned judgment of the learned Single Judge commenting on as to what the possible consequence would be for the DHs if the other pending litigation against the JD were to be decided against the JD. The learned Single Judge has observed that in such an event, the JD would have to

indemnify the DHs.

8. Here again, the Court finds absolutely no error or illegality which calls for any interference. There is no merit in this appeal and the same is accordingly dismissed. The pending application is also dismissed. No costs.

S. MURALIDHAR, J.

SANJEEV NARULA, J.

JANUARY 07, 2019

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